

Welcome Resolution

S. R. No. 676—By Senator Word: Extending welcome to Forrest E. Watson and W. B. McPherson.

Recess

Senator Aikin moved that the Senate take recess until 10:00 o'clock a.m. tomorrow.

Senator Schwartz moved that the Senate stand adjourned until 10:00 o'clock a.m. tomorrow.

Question first on the motion to stand adjourned until 10:00 o'clock a.m. tomorrow, "Yeas" and "Nays" were demanded.

The motion was lost by the following vote:

Yeas—10

Bernal	Mauzy
Christie	Patman
Cole	Schwartz
Harrington	Strong
Jordan	Wilson

Nays—15

Aikin	Herring
Bates	Hightower
Berry	Parkhouse
Blanchard	Ratliff
Brooks	Reagan
Creighton	Watson
Hall	Word
Hardeman	

Absent

Connally	Hazlewood
Grover	Moore

Absent—Excused

Kennard	Wade
---------	------

Question recurring on the motion to take recess until 10:00 o'clock a.m. tomorrow, the motion prevailed.

Accordingly, the Senate at 12:25 o'clock p.m. took recess until 10:00 o'clock a.m. tomorrow.

SIXTY-SECOND DAY

(Friday, May 19, 1967)

After Recess

The Senate met at 10:00 o'clock a.m. and was called to order by the President.

Leave of Absence

Senator Cole was granted leave of absence for today on account of important business on motion of Senator Brooks.

Message From the House

Hall of the House of Representatives

Austin, Texas,
May 19, 1967.

Hon. Preston Smith, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

S. B. No. 78, A bill to be entitled "An Act relating to travel and other necessary expenses of district judges and district attorneys paid by the state; amending Section 2, Chapter 231, Acts of the 56th Legislature, Regular Session, 1959 (Article 6823a, Vernon's Texas Civil Statutes); amending Article 6820, Revised Civil Statutes of Texas, 1925, as amended; repealing Article 6823, Revised Civil Statutes of Texas, 1925, as amended; and declaring an emergency."

S. B. No. 85, A bill to be entitled "An Act relating to mentally retarded persons and responsibility for their support and maintenance as students in State Schools; amending Section 21, Chapter 119, Acts of the 54th Legislature, 1955 (Article 3871b, Vernon's Texas Civil Statutes); and declaring an emergency."

(With Amendments.)

S. B. No. 370, A bill to be entitled "An Act authorizing the Board of Directors of Texas A&M University to lease any portion of the James Connally Air Force Base that the board determines not necessary for the establishment or operation of the James Connally Technical Institute of Texas A&M University; amending Chapter 91, Acts of the 59th Legislature, Regular Session, 1965 by adding Section 4A (Article 2615f-1, Vernon's Texas Civil Statutes; and declaring an emergency."

S. J. R. No. 32, Proposing an amendment to Article VIII of the Constitution of the State of Texas by adding a Section 1-e providing for a gradual abolition of the property tax levied by Article VII, Section 3; an abolition of the Two Cent ad valorem tax levied by Article VII, Section 17

after December 31, 1976; providing that the Ten Cent ad valorem tax levied by Article VII, Section 17, shall not be levied after December 31, 1978; and providing for deletion of references to ad valorem taxes in Article III, Section 51.

(With Amendments.)

H. B. No. 1306, A bill to be entitled "An Act relating to incitement to riot; and declaring an emergency."

Unanimous consent granted to amend caption to conform to body of S. J. R. No. 32.

Respectfully submitted,

DOROTHY HALLMAN,
Chief Clerk, House of Representatives

House Bill 558 Re-referred

Senator Hall asked unanimous consent that H. B. No. 558 be withdrawn from the Committee on State Affairs and re-referred to the Committee on Counties, Cities and Towns.

There was objection.

Senator Hall moved that H. B. No. 558 be withdrawn from the Committee on State Affairs and re-referred to the Committee on Counties, Cities and Towns.

The motion prevailed.

Record of Votes

Senators Hardeman, Grover and Parkhouse asked to be recorded as voting "Nay" on the motion to re-refer H. B. No. 558.

Senate Bill 535 With House Amendment

Senator Herring called S. B. No. 535 from the President's Table for consideration of the House amendments to the bill.

The President laid the bill and the following House amendment before the Senate:

Committee Amendment 1

Amend S. B. 535 in the following respects:

a. Add, after the word "District" appearing on line 55 of page 2 of the printed bill the following:

"upon presentation of a petition of one hundred (100) residents legally qualified property taxpaying electors,"

b. Delete the last sentence of Sec. 3 appearing on lines 19, 20 and 21 of page 3 of the printed bill and substitute therefor the following:

"If the proposition to create the Blanco Memorial Hospital District fails to carry at the election, no other election for the same purpose may be held within one year after the result of the election is announced officially."

c. Delete the second and third sentences of Sec. 5 appearing on lines 39, 40, 41 and 42 of page 4 of the printed bill and substitute therefor the following:

"No person shall be appointed or elected as Trustee unless he is a resident of the District and owns land subject to taxation therein and unless at the time of such appointment he is twenty-one (21) years of age or over."

d. Add, after the word "condemnation" ending on line 19, page 6 of the printed bill the words "by counties."

e. Delete the word "guardians" appearing on line 25 of page 8 of the printed bill.

The House amendment was read.

Senator Herring moved that the Senate concur in the House amendment.

The motion prevailed by the following vote:

Yeas—27

Aikin	Jordan
Bates	Mauzy
Bernal	Moore
Blanchard	Parkhouse
Brooks	Patman
Christie	Ratliff
Connally	Reagan
Creighton	Schwartz
Grover	Strong
Hall	Wade
Hardeman	Watson
Harrington	Wilson
Herring	Word
Hightower	

Absent

Berry Hazlewood

Absent—Excused

Cole Kennard

House Bill 346 on Second Reading

On motion of Senator Hall and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its

second reading and passage to third reading:

H. B. No. 346, A bill to be entitled "An Act to amend Chapter 4, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 6243a, Vernon's Texas Civil Statutes), by adding a new Section 1A to authorize the Board of Trustees for certain Firemen, Policemen and Fire Alarm Operators' Pension Funds to employ an investment counselor and to compensate him from the pension fund; to amend Sections 2 and 3, Chapter 4, Acts of the 43rd Legislature, 1st Called Session, 1933, as last amended by Chapter 387, Acts of the 44th Legislature, 1st Called Session, 1935 (Article 6243a, Vernon's Texas Civil Statutes), to increase the maximum permissible deduction and rate of contribution by participants to the fund; and declaring an emergency."

The bill was read second time.

Senator Hall offered the following Committee Amendment to the bill:

Amend Sec. 1A of H. B. 346 to hereafter read as follows:

Section 1A. (a) The Board of Trustees may employ an investment counselor to advise the Board in the investment and re-investment of money in the Firemen, Policemen, and Fire Alarm Operators' Pension Fund. The following will be eligible for employment as an investment counselor:

1. Any organization whose regular business functions include rendering investment advisory service to pension and retirement funds and which is registered as a "dealer" under the provisions of Chapter 269, Acts of the 55th Legislature, as amended.

2. Any bank maintaining a Trust Department and offering investment services to pension and retirement funds.

(b) The investment counselor shall receive such compensation as may be determined by the Board. The compensation of the investment counselor may be paid in whole or in part by the City, and if not paid by the City, the cost of the counseling service shall be paid from the Firemen, Policemen, and Fire Alarm Operators' Pension Fund.

The Committee Amendment was read and was adopted.

On motion of Senator Hall, and by

unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

House Bill 346 on Third Reading

Senator Hall moved that the Constitutional Rule and Senate Rule 32 requiring bills to be read on three several days be suspended and that H. B. No. 346 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—29

Aikin	Hightower
Bates	Jordan
Bernal	Mauzy
Berry	Moore
Blanchard	Parkhouse
Brooks	Patman
Christie	Ratliff
Connally	Reagan
Creighton	Schwartz
Grover	Strong
Hall	Wade
Hardeman	Watson
Harrington	Wilson
Hazlewood	Word
Herring	

Absent—Excused

Cole	Kennard
------	---------

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—29

Aikin	Hightower
Bates	Jordan
Bernal	Mauzy
Berry	Moore
Blanchard	Parkhouse
Brooks	Patman
Christie	Ratliff
Connally	Reagan
Creighton	Schwartz
Grover	Strong
Hall	Wade
Hardeman	Watson
Harrington	Wilson
Hazlewood	Word
Herring	

Absent—Excused

Cole	Kennard
------	---------

House Bill 720 Re-Referred

On motion of Senator Word H. B. No. 720 was withdrawn from the Committee on State Affairs and re-referred to the Committee on Counties, Cities and Towns.

Record of Vote

Senator Hardeman asked to be recorded as voting "Nay" on the motion to re-refer H. B. No. 720.

House Bill 475 Re-Referred

On motion of Senator Blanchard H. B. No. 475 was withdrawn from the Committee on State Affairs and re-referred to the Committee on Counties, Cities and Towns.

Record of Vote

Senator Hardeman asked to be recorded as voting "Nay" on the motion to re-refer H. B. No. 475.

Reports of Standing Committees

Senator Hall by unanimous consent submitted the following reports:

Austin, Texas,
May 19, 1967.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Counties, Cities and Towns, to which was referred H. B. No. 558, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

HALL, Chairman
WORD
CHRISTIE

Austin, Texas,
May 19, 1967.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Counties, Cities and Towns, to which was referred H. B. No. 611, have had the same under consideration and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

HALL, Chairman
WORD
CHRISTIE

Austin, Texas,
May 19, 1967.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Counties, Cities and Towns, to which was referred H. B. No. 720, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

HALL, Chairman
WORD
CHRISTIE

Austin, Texas,
May 19, 1967.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Counties, Cities and Towns, to which was referred H. B. No. 475, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

HALL, Chairman
WORD
CHRISTIE

Senator Moore by unanimous consent submitted the following report:

Austin, Texas,
May 18, 1967.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Constitutional Amendments, to which was referred S. J. R. No. 41, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

MOORE, Chairman

Senator Parkhouse by unanimous consent submitted the following report:

Austin, Texas,
May 19, 1967.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Water and Conservation, to which was referred H. B. No. 552, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

PARKHOUSE, Chairman.

Senator Hightower by unanimous consent submitted the following report:

Austin, Texas,
May 19, 1967.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Game and Fish, to which was referred H. B. No. 1001, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

HIGHTOWER, Chairman.

House Bill 558 Ordered Not Printed

On motion of Senator Hall and by unanimous consent H. B. No. 558 was ordered not printed.

Senate Bill 85 with House Amendments

Senator Herring called S. B. No. 85 from the President's Table for consideration of the House amendments to the bill.

The President laid the bill and the following House amendments before the Senate:

Amendment 1

Amend S. B. No. 85 by changing the effective date in Sec. 3 of the bill to read "September 1, 1968."

Amendment 2

Amend S. B. No. 85, Section 1, by striking lines 52, 53, and 54.

Amendment 3

Amend S. B. No. 85, Section 1, lines 55, 56, 57, and 58 by striking the language thereon and inserting in lieu thereof the following:

"(b) Parents of a mentally retarded person who is 21 years of age or older shall not be required to pay for his support and maintenance in a state school as a student, but the mentally retarded person and his estate shall be liable for his support and maintenance regardless of his age."

Amendment 4

Amend S. B. No. 85, Section 1, lines 37, 40, 41, to read as follows:

"If the amount shown as 'Net Taxable Income' of the parents as reported on their latest current financial statement or on their latest Federal Income Tax return at the election of the parent or guardian is:"

"The monthly payment per child shall not exceed:"

and by striking the figure "12,999" and the word "up" at line 51 and adding the following language at line 51:

12,000-12,999	90.00
12,999-13,000	100.00
13,000-13,999	110.00
14,000-14,999	120.00
15,000-15,999	130.00
16,000-16,999	140.00
17,000-17,999	150.00
18,000-18,999	160.00
19,000-19,999	170.00
20,000-up	180.00

Provided that no payment under the above schedule shall exceed actual cost to the State per student and if the payment required under this schedule is more than actual cost then the amount paid shall be the actual cost.

The House amendments were read.

Senator Herring moved that the Senate concur in the House amendments.

The motion prevailed.

House Bill 599 Re-Referred

On motion of Senator Brooks H. B. No. 599 was withdrawn from the Committee on State Affairs and re-referred to the Committee on Counties, Cities and Towns.

Record of Vote

Senator Hardeman asked to be recorded as voting "Nay" on the motion to re-refer H. B. No. 599.

House Bill 557 Re-Referred

On motion of Senator Word H. B. No. 557 was withdrawn from the Committee on State Affairs and re-referred to the Committee on Counties, Cities and Towns.

Record of Vote

Senator Hardeman asked to be recorded as voting "Nay" on the motion to re-refer H. B. No. 557.

Bill and Resolutions Signed

The President signed in the presence of the Senate after the caption had been read, the following enrolled bill and resolutions:

S. B. No. 565, A bill to be entitled "An Act relating to the creation, establishment, maintenance, and operation of the Orange County Airport Authority in accordance with the provisions of Section 12, Article IX of the Constitution of the State of Texas; and declaring an emergency."

S. J. R. No. 37, Proposing an amendment to Article III, Constitution of the State of Texas, by adding a new Section 52e to give Dallas County the power to issue bonds under Article III, Section 52 of the Constitution for the construction, maintenance and operation of macadamized, graveled or paved roads and turnpikes, or in aid thereof, upon a vote of a majority of the resident property taxpayers voting thereon who are qualified electors of said county, and to provide that bonds heretofore or hereafter issued under Sub-sections (a) and (b) of said Section 52 shall not be included in determining the debt limit prescribed in said section, and fixing the date for the election on the adoption of said amendment.

S. C. R. No. 64, Creating an interim committee on Emergency Hospital Treatment.

S. C. R. No. 74, Correcting S. B. No. 565.

S. C. R. No. 75, Correcting S. B. No. 292.

S. C. R. No. 76, Authorizing the Enrolling Clerk to make certain corrections in S. B. No. 579.

House Bill 558 on Second Reading

On motion of Senator Hall and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H. B. No. 558, A bill to be entitled "An Act relating to the permanent building to be erected at HemisFair; amending Sections 4 and 8, Chapter

443, Acts of the 59th Legislature, Regular Session, 1965; adding a new Section 6a; repealing all laws in conflict; and declaring an emergency."

The bill was read second time and passed to third reading.

Record of Votes

Senators Blanchard and Parkhouse asked to be recorded as voting "Nay" on the passage of the bill to third reading.

House Bill 558 on Third Reading

Senator Hall moved that the Constitutional Rule and Senate Rules 32 and 38 requiring bills to be read on three several days be suspended and that H. B. No. 558 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—26

Aikin	Herring
Bates	Hightower
Bernal	Jordan
Berry	Mauzy
Brooks	Moore
Christie	Patman
Connally	Ratliff
Creighton	Reagan
Grover	Schwartz
Hall	Strong
Hardeman	Wade
Harrington	Wilson
Hazlewood	Word

Nays—3

Blanchard	Watson
Parkhouse	

Absent—Excused

Cole	Kennard
------	---------

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—26

Aikin	Connally
Bates	Creighton
Bernal	Grover
Berry	Hall
Brooks	Hardeman
Christie	Harrington

Hazlewood	Ratliff
Herring	Reagan
Hightower	Schwartz
Jordan	Strong
Mauzy	Wade
Moore	Wilson
Patman	Word

Nays—3

Blanchard	Watson
Parkhouse	

Absent—Excused

Cole	Kennard
------	---------

House Bill 874 on Second Reading

On motion of Senator Hall and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H. B. No. 874, A bill to be entitled "An Act amending Acts 1955, 54th Legislature, Chapter 368, as amended, to make Act effective to governing bodies of the additional institutions named; to clarify the terms of such Act; to eliminate restrictions on the types of buildings to be constructed with proceeds of revenue bonds and the revenues and fees that can be pledged on the issuance of revenue bonds; providing for severability; and declaring an emergency."

The bill was read second time and passed to third reading.

House Bill 874 on Third Reading

Senator Hall moved that the Constitutional Rule and Senate Rule 32 requiring bills to be read on three several days be suspended and that H. B. No. 874 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—28

Aikin	Hardeman
Bates	Harrington
Bernal	Hazlewood
Berry	Herring
Blanchard	Hightower
Brooks	Jordan
Christie	Mauzy
Connally	Moore
Creighton	Parkhouse
Grover	Patman
Hall	Ratliff

Schwartz	Watson
Strong	Wilson
Wade	Word

Nays—1

Reagan

Absent—Excused

Cole	Kennard
------	---------

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—28

Aikin	Herring
Bates	Hightower
Bernal	Jordan
Berry	Mauzy
Blanchard	Moore
Brooks	Parkhouse
Christie	Patman
Connally	Ratliff
Creighton	Schwartz
Grover	Strong
Hall	Wade
Hardeman	Watson
Harrington	Wilson
Hazlewood	Word

Nays—1

Reagan

Absent—Excused

Cole	Kennard
------	---------

Motion to Place**House Bill 867 on Second Reading**

Senator Hall asked unanimous consent to suspend the regular order of business and take up H. B. No. 867 for consideration at this time.

There was objection.

Senator Hall then moved to suspend the regular order of business and take up H. B. No. 867 for consideration at this time.

The motion was lost by the following vote (not receiving two-thirds vote of the Members present):

Yeas—10

Bernal	Harrington
Berry	Hightower
Brooks	Jordan
Connally	Strong
Hall	Word

Nays—18

Aikin	Moore
Bates	Parkhouse
Blanchard	Patman
Christie	Ratliff
Creighton	Reagan
Grover	Schwartz
Hardeman	Wade
Herring	Watson
Mauzy	Wilson

Absent

Hazlewood

Absent—Excused

Cole

Kennard

Senate Bill 429 on Second Reading

On motion of Senator Connally and by unanimous consent, the regular order of business was suspended to take up for consideration at this time, on its second reading and passage to engrossment:

S. B. No. 429, A bill to be entitled "An Act creating the 170th Judicial District; providing for its court and for the jurisdiction, terms, personnel, administration and practice of the court; amending Subdivisions 49 and 79, Article 199, Revised Civil Statutes of Texas, 1925, as amended; and declaring an emergency."

The bill was read second time.

Senator Connally offered the following Committee Amendment to the bill:

Strike all below the enacting clause and substitute therefor the following:

Section 1. CREATION AND JURISDICTION. (a) The 170th Judicial District is created. Its boundaries are coextensive with the boundaries of Duval, Jim Hogg, Zapata, and Starr Counties.

(b) The 170th District Court has the jurisdiction provided for district courts by the Constitution and laws of this state. The jurisdiction of the 170th District Court in Jim Hogg County and Zapata County is concurrent with that of the 49th District Court.

Section 2. TERMS OF COURT. The terms of the 170th District Court begin on the first Monday in January and the first Monday in July of each year. Each term of the court continues

until the next succeeding term convenes.

Section 3. JUDGE. (a) As soon as practicable after the effective date of this Act, the governor shall appoint as judge of the 170th District Court a person qualified to serve as a district judge under the Constitution and laws of this state. The judge appointed holds office until the next general election and until his successor is duly elected and qualified.

(b) The judge of the 170th District Court is entitled to the same compensation and allowances provided by the state for other district judges, and to a supplement of \$5,900 a year divided equally among the counties of the district.

Section 4. COURT OFFICIALS. (a) The judge of the 170th District Court may appoint an official court reporter. The reporter must meet the qualifications prescribed by law for that office and is entitled to the same compensation, fees, and allowances provided by law for the official court reporter of the 49th Judicial District.

(b) The District Attorney of the 49th Judicial District shall serve as the District Attorney in Jim Hogg County and Zapata County. The sheriff and clerk of each county comprising the 170th Judicial District shall serve as sheriff and clerk, respectively, of the 170th District Court. They shall perform the duties, and are entitled to the compensation and allowances, prescribed by law for their respective offices.

Section 5. TRANSFER OF CAUSES. (a) In any county of the 170th Judicial District where the jurisdiction of the 170th District Court is concurrent with that of another district court, the judges of the two district courts having concurrent jurisdiction may freely transfer causes, civil and criminal, to and from the dockets of their respective courts. The judges may also freely exchange benches and courtrooms with each other so that if a judge is ill, disqualified, or otherwise absent, another judge may hold court for him without the necessity of transferring the cause involved.

(b) In any county of the 170th Judicial District where the jurisdiction of the 170th District Court is concurrent with that of another district court, a judge of one of the district courts having such concurrent

jurisdiction may hear all or any part of a cause pending in another district court of that county; and he may rule and enter orders on, continue, determine, or render judgment on all or any part of the cause without the necessity of transferring it to his own docket.

Section 6. Subdivision 49, Article 199, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 34, Acts of the 48th Legislature, Regular Session, 1943, is amended to read as follows:

"49. DIMMIT, ZAPATA, JIM HOGG AND WEBB.

"The 49th Judicial District shall be composed of the Counties of Dimmit, Zapata, Jim Hogg, and Webb, and the terms of the District Court are hereby designated therein each year as follows:

"In the County of Dimmit on the first Mondays in February and September and on the second Monday in May.

"In the County of Zapata on the fourth Mondays in February, May, and September.

"In the County of Jim Hogg on the first Mondays in March, June, and October.

"In the County of Webb on the third Mondays in March, June, and October.

"Each term of Court in each of such Counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

"The jurisdiction of the 49th District Court in Jim Hogg and Zapata Counties is concurrent with that of the 170th District Court.

"The Judge of the 49th District Court or the Judge of the 170th District Court may hear and dispose of any suit or proceeding on the docket of either court in Jim Hogg and Zapata Counties. This may be done in any case without the necessity of transferring the suit or proceeding from one court to the other; however, the Judges may transfer cases from one court to the other by an order entered on the docket of the Court from which the case is transferred. Provided, however, that no case may be transferred without the consent of the Judge of the Court to which transferred. Every judgment and order shall be entered in the minutes of the District Court of the county in which the proceedings are pending, and the Clerk of the

District Court in said county shall keep the minutes of the Court in which shall be recorded all the judgments and orders of the respective Courts.

"In Jim Hogg County jurors shall be selected as prescribed by law for service in both the 49th and 170th District Courts, and may be summoned and used for the trial of cases interchangeable in either of the district courts."

Section 7. Subdivision 79, Article 199, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 27, Acts of the 51st Legislature, 1st Called Session, 1950, is amended to read as follows:

"79. BROOKS AND JIM WELLS

"The 79th Judicial District shall be composed of the Counties of Brooks, and Jim Wells.

"The terms of this District Court begin on the first Monday in January and the first Monday in July of each year. Each term of the court continues until the next succeeding term convenes.

"The Judge of said Court in his discretion may hold as many sessions of Court in any term of the Court in any county as is deemed by him proper and expedient for the dispatch of business.

"All process issued and returnable to a succeeding term of court, and all bonds and recognizances made and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding terms of the District Court of the several counties as herein fixed as though issued and served for such terms and returnable to and drawn for the same. All process issued and made returnable on or before Monday next after the expiration of twenty (20) days from the date of service thereof shall be valid, and unaffected by this Act.

"It is further provided that if any court in any county of said District shall be in session at the time this Act takes effect, such court or courts affected thereby shall continue in session until the time for the beginning of the next succeeding term therein, as provided for herein, and any court in any county of said District which is not in session at the time this Act takes effect may be opened for a new term at any time at the discretion of the Judge thereof and shall continue in session until

the time for the beginning of the next succeeding term therein, as provided for herein; but thereafter all courts in said District shall conform to the requirements of this Act.

Section 8. Article 322, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 306, Acts of the 48th Legislature, 1943, is amended to read as follows:

"The following Judicial Districts in this state shall each respectively elect a District Attorney, viz.: 1st, 2nd, 3rd, 5th, 7th, 8th, 9th, 12th, 21st, 22nd, 23rd, 24th, 25th, 27th, 29th, 30th, 31st, 32nd, 33rd, 34th, 35th, 36th, 38th, 39th, 42nd, 46th, 47th, 49th, 50th, 51st, 52nd, 53rd, 63rd, 64th, 69th, 70th, 72nd, 75th, 76th, 79th, 81st, 83rd, 90th, 100th, 106th and 170th. There shall also be elected a Criminal District Attorney for Harris County, a Criminal District Attorney for Dallas County, a Criminal District Attorney for Tarrant County, and one Criminal District Attorney for the Counties of Nueces, Kleberg, Kenedy, Willacy and Cameron."

Section 9. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each house be suspended, and this Rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Connally offered the following amendment to the pending Committee Amendment:

Amend the Committee Amendment to S. B. No. 429 by adding subsection (c) under Section 4 to read as follows:

"(c) The Judge of the 170th District Court and the Judge of the 49th District Court may appoint an officer for each of the counties in their respective districts to act as bailiff or bailiffs for said court. Each such bailiff or bailiffs appointed shall be paid a salary out of the general fund of the county of such court as set by the District Court making such appointment, with the approval of the Commissioners Court of the county of such court. The bailiff or bailiffs shall perform any and all duties im-

posed upon bailiffs in this state under the general laws. In addition thereto, the bailiff shall perform such duties as are required by the District Judge appointing such officer. The bailiff thus appointed is subject to removal without cause at the will of the appointing judge. Bailiffs thus appointed shall be duly deputized by the sheriff of such county, in addition to other deputies now authorized by law, upon the request of the District Judge or District Judges."

The amendment was read and was adopted.

The Committee Amendment as amended was then adopted.

On motion of Senator Connally and by unanimous consent the caption was amended to conform to the body of the bill as amended.

(Senator Aikin in the Chair.)

The bill as amended passed to engrossment.

Senate Bill 429 on Third Reading

Senator Connally moved that the Constitutional Rule and Senate Rule 32 requiring bills to be read on three several days be suspended and that S. B. No. 429 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—29

Aikin	Hightower
Bates	Jordan
Bernal	Mauzy
Berry	Moore
Blanchard	Parkhouse
Brooks	Patman
Christie	Ratliff
Connally	Reagan
Creighton	Schwartz
Grover	Strong
Hall	Wade
Hardeman	Watson
Harrington	Wilson
Hazlewood	Word
Herring	

Absent—Excused

Cole Kennard

(President in the Chair.)

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—29

Aikin	Hightower
Bates	Jordan
Bernal	Mauzy
Berry	Moore
Blanchard	Parkhouse
Brooks	Patman
Christie	Ratliff
Connally	Reagan
Creighton	Schwartz
Grover	Strong
Hall	Wade
Hardeman	Watson
Harrington	Wilson
Hazlewood	Word
Herring	

Absent—Excused

Cole Kennard

Senate Bill 431 on Second Reading

Senator Connally asked unanimous consent to suspend the regular order of business and take up S. B. No. 431 for consideration at this time.

There was objection.

Senator Connally then moved to suspend the regular order of business and take up S. B. No. 431 for consideration at this time.

The motion prevailed by the following vote:

Yeas—21

Aikin	Herring
Bates	Hightower
Bernal	Jordan
Berry	Mauzy
Brooks	Moore
Christie	Patman
Connally	Reagan
Grover	Schwartz
Hall	Wilson
Harrington	Word
Hazlewood	

Nays—8

Blanchard	Ratliff
Creighton	Strong
Hardeman	Wade
Parkhouse	Watson

Absent—Excused

Cole Kennard

The President laid before the Senate on its second reading and passage to engrossment:

S. B. No. 431, A bill to be entitled "An Act exempting citizens of Texas with a family income of not more than \$4,800.00 from the payment of tuition and fees at institutions of collegiate rank and providing qualifications and requirements for eligibility; providing a method of administration; and declaring an emergency."

The bill was read second time.

Senator Connally offered the following Committee Amendment to the bill:

Amend S. B. No. 431 by renumbering Section 7 as Section 8 and inserting a new Section 7 to read as follows:

"Section 7. There is hereby appropriated out of the General Revenue Fund in the State Treasury to the Comptroller of Public Accounts, the sum of \$750,000 to be allocated among the junior colleges supported in whole or in part by public funds appropriated from the State Treasury as follows: During the biennium ending August 31, 1969, each of the said junior colleges shall receive a sum equal to that junior college's tuition and fees per student for that semester multiplied by the number of students exempted under this Act at that junior college, in that semester; said sums shall be transferred to each of the junior colleges once each semester. At the end of the biennium, any money remaining after allocation to the junior colleges entitled to participate shall be returned to the General Revenue Fund."

The Committee Amendment was read.

Senator Connally offered the following substitute for the Committee Amendment:

Amend S. B. No. 431, Section 7, to read as follows:

"Section 7. There is hereby appropriated out of the General Revenue Fund in the State Treasury to the Comptroller of Public Accounts, the sum of \$275,000 to be allocated among the junior colleges supported in whole or in part by public funds appropriated from the State Treasury as follows: During the fiscal year ending August 31, 1968, each of the said junior colleges shall receive a sum equal to that junior college's tuition and fees per student for that semester

multiplied by the number of students exempted under this Act at that junior college, in that semester; said sums shall be transferred to each of the junior colleges once each semester. At the end of the biennium, any money remaining after allocation to the junior colleges entitled to participate shall be returned to the General Revenue Fund."

The substitute for the Committee Amendment was read and was adopted.

The Committee Amendment as substituted was then adopted.

Senator Connally offered the following amendment to the bill:

Amend S. B. No. 431 by adding after the words "income tax return" wherever they appear, the following: "or financial statement which shall be sworn to by the applicant's parents or guardian."

The amendment was read and was adopted.

On motion of Senator Connally the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

Record of Votes

Senators Hardeman, Strong, Reagan, Hazlewood, Herring, Wade, Creighton, Watson, Parkhouse and Ratliff asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

Senate Bill 58 With House Amendments

Senator Creighton called S. B. No. 58 from the President's Table for consideration of the House amendments to the bill.

The President laid the bill and the following House amendments before the Senate:

Committee Amendment 1

Amend Section 14a of S. B. No. 58 (First Official House Printing) by inserting on page 12, immediately following line 34, a new Subdivision 4 to Section 32c of the Texas Election Code and by changing the word and figure "Subdivision 4" on page 12,

line 35 to "Subdivision 5", the new Subdivision 4 to read as follows:

"Subdivision 4. Notwithstanding any other provision of this code, whenever a vacancy occurs in the office of state representative or state senator in any representative or senatorial district in this state during a regular session of the Legislature and more than twenty-five days before the final date permitted by law for the continuation of the session, or within a period of sixty days prior to the convening of any session of the Legislature, the time intervals specified in this subdivision shall control the election. The proclamation of the Governor ordering the election shall be issued and mailed to the appropriate county judge or judges not less than twenty-one days before the election. If the election is called for a date less than thirty-five days after the date of the order, the application of any person desiring his name to appear on the official ballot at the election must be filed not later than five days after the date of the order, which shall state the deadline for filing applications. If a second election is necessary, it shall be called for a date not less than seven nor more than twenty-five days after the date of the order calling the election. If the first election is called for a date less than thirty days after the date of the election order, fifteen days' notice of the election and fifteen days' notification to the presiding judges shall be sufficient for that election. In a runoff election, six days' notice and notification shall be sufficient. If ballots for absentee voting in either election cannot be made available by the twentieth day preceding the date of the election, absentee voting shall begin as soon after the twentieth day as the ballots are available, and in all events must begin not later than the third day after the date of the Secretary of State's certification of the names of the candidates to be placed on the ballot or after the date of the order calling the election, whichever is the later, if such third day is less than twenty days prior to the election. Except as modified herein, the election shall be held in accordance with provisions regulating other special elections for the Legislature."

Committee Amendment 2

Amend S. B. No. 58 by adding a

new section designated as Section 6a immediately following Section 6, the new section to read as follows:

Sec. 6a. Section 11 (Article 2.03), Texas Election Code, as amended by Section 1, Chapter 603, Acts of the 59th Legislature, Regular Session, 1965, is amended to read as follows:

"11. HELD IN PUBLIC BUILDINGS

"(a) In all cases where it is practicable to do so, all elections—general, special, or primary—shall be held in some schoolhouse, fire station, or other public building within the limits of the election precinct in which such election is being held. No charge shall be made for the use of such building, except that any additional expense actually incurred by the authorities in charge of the building on account of the holding of the election therein shall be repaid to them by the authority liable for the expenses of holding the election under the existing law. The authority liable for the expenses of the election may demand an itemized statement of the additional expense incurred for use of the building before making its remittance for such expense. If no public building is available, the election may be held in some other building, and any charge for its use shall be paid as an expense of the election.

"(b) The commissioners court of any county in this state is authorized to make the necessary expenditure from the permanent improvement fund of the county to construct or purchase a suitable building for holding elections in each precinct formed by the commissioners court for which no other public building is available. The building shall be made available without cost for the holding of any general, special, or primary election held within territory embracing the location of the building upon the request of the authority conducting the election, except that the county shall be reimbursed for any additional expense actually incurred on account of holding the election therein. If more than one authority requests the use of the building for the same day, the commissioners court shall determine within its discretion which authority shall be permitted to use it if all elections for which its use is requested for the same day cannot be held in the building simultaneously. The commissioners court may permit the building to be used

for purposes other than the holding of elections, either with or without charge, when it is not being used for that purpose."

Committee Amendment 3

Amend S. B. No. 58 (First Official House Printing) by adding a new section designated as Section 55a immediately following Section 55, the new section to read as follows:

Sec. 55a. Paragraph (3) of Section 208 (Paragraph 3 of Article 13.30), Texas Election Code, is amended to read as follows:

"(3) Any candidate desiring to contest the result of any primary election in which he was a candidate shall file his suit in the district court within ten days from the date of canvass of the results of the election by the state executive committee in the case of a statewide office or a district office in a district which includes territory situated in more than one county, and within ten days from the date of canvass by the county executive committee in the case of a county or precinct office or a district office in a district which consists of only one county or part of one county. Process with a true copy of the petition or complaint attached thereto shall be served upon the opposite party as in other civil suits, except that the return day thereof shall be fixed by the district judge. If the contestee cannot be found within the county in which the contest is filed, service may be had upon the agent or attorney of the contestee, or by leaving the process with some person over the age of sixteen years at the usual place of abode or business of the contestee, or his last address. If service cannot be effected within three days in any of the above methods, service upon the contestee may be had by serving the county clerk in the county where suit is filed, and any candidate who files for a place on the ballot in the primary election shall thereby appoint such county clerk as his agent to receive service for him under the circumstances above set forth. If a candidate for a district office in a district which includes territory situated in more than one county files a contest in one or more counties without filing a contest in every county having territory within the district, the contestee shall have five days from the date of first service of process on him in the suit or suits filed

by the contestant, in which to file a contest in such other counties of the district as he may desire to do. In a suit filed by a contestee under the authorization of the preceding sentence, the parties shall be designated, and the suit shall proceed, in the same manner as original contests filed under this section. Nothing herein shall be construed to prevent the contestee in a pending suit from himself filing a contest as a contestant, within ten days from the applicable date of canvass, in the district court of any county having venue of the contest preceeding."

Committee Amendment 4

Amend S. B. No. 58 (First Official House Printing) in the following respects:

(1) Amend Section 34 by deleting the word "constable" on page 30, line 51, and inserting in lieu thereof the words "peace officer"; and by adding the following sentence to Paragraph (b) immediately following the words "for the election." on page 30, line 53: "Notwithstanding the general authority granted to election judges in Section 87 of this code, a special peace officer appointed by the presiding judge shall not undertake to enforce the provisions of this section unless his appointment has been approved as required herein."

(2) Add a new section designated at Section 40a immediately following Section 40, the new section to read as follows:

Sec. 40a. Section 184 (Article 13.06), Texas Election Code, is amended to read as follows:

"186. Judges of Primary

"Judges of primary elections have the authority, and it shall be their duty, to administer oaths, to preserve order at the election, to appoint special officers to enforce the observance of order and to make arrests, as judges of general elections are authorized and required to do."

Committee Amendment 5

Amend S. B. No. 58 (First Official House Printing) by adding a new section designated as Section 61a immediately following Section 61, the new section to read as follows:

Sec. 61a. Section 4 of Section 224a (Section 4 of Article 13.47a), Texas Election Code, as added by Chapter 90, Acts of the 57th Legislature, 1961, is amended to read as follows:

"Sec. 4. The requirements of Sections 1 and 3 shall not apply to candidates for unexpired terms where the vacancy in office occurs subsequent to the tenth day preceding the regular deadline for filing applications for a place on a primary election ballot as prescribed in Paragraph 2 of Section 190 of this code. The requirements of Section 3 shall not apply to independent candidates for any office for which the filing deadline in a primary election is extended under the provisions of Paragraph 2a of Section 190 of this code."

Committee Amendment 6

Amend S. B. No. 58 (First Official House Printing) in the following respects:

(1) Amend Section 20 by inserting the words "under the general voter registration laws of this state" on page 16, line 56, between the word "register" and the following comma; by deleting the word "make" on page 16, line 57, and inserting in lieu thereof the words "register by making"; by deleting the word "make" on page 19, line 5, and inserting in lieu thereof the words "register by making"; and by inserting the word "former" between the word "no" and the word "registration" on page 19, lines 22 and 23.

(2) Amend Section 37 by inserting the words "manually counted" on page 31, line 43, between the word "on" and the word "paper."

(3) Amend Section 43 by deleting the comma following the words "Court of Civil Appeals" on page 58, line 13.

(4) Amend Section 47 by deleting the word "and" preceding the words "the county" on page 41, line 15, and by deleting the words "and precinct" preceding the word "offices" on page 41, line 16.

(5) Amend Section 77 by deleting the words "Regular Session," on page 58, line 28.

Committee Amendment 7

Amend Senate Bill No. 58 by adding a new section numbered Section 29a immediately following Section 29, the new section to read as follows:

Sec. 29a. The Texas Election Code is amended by adding a new Section 80, to read as follows:

"80. Providing for Electronic Voting Systems

"Subdivision 1. Purpose. The pur-

pose of this section is to authorize the use of electronic voting systems in which the voter records his votes by marking or punching a ballot which is so designed that votes may be counted by data processing machines.

"Subdivision 2. Definitions As used in this section, unless otherwise specified:

"(a) 'Electronic voting system' means a system of voting in which voted ballots are counted and tabulated by automatic tabulating equipment.

"(b) 'Automatic tabulating equipment' means any apparatus which automatically examines and counts voted ballots and tabulates the results.

"(c) 'Voting equipment' means any kind of equipment used in connection with an electronic voting system other than automatic tabulating equipment.

"(d) 'Ballot card' means a card which is placed upon or inserted in a voting device and which is marked or pierced by the voter in the process of voting.

"(e) 'Ballot labels' means card, papers, booklet, pages, or other material attached to a voting device containing the names of offices, candidates and parties and statements of measures to be voted on.'

"(f) 'Ballot' may refer to paper ballots, ballot cards, ballot labels, or combinations of ballot cards and ballot labels depending on the context.

"(g) 'Central counting station' means one or more locations selected by the proper public official for the automatic counting and tabulating of ballots.

"Subdivision 3. Examination and Approval of Electronic Voting Systems. (a) Any person, firm, or corporation desiring to have an electronic voting system adopted for use in this state may apply to the Secretary of State to have such system examined. Before the examination the applicant shall pay to the Secretary of State the sum of \$450. The Secretary of State shall cause such system to be examined as hereinafter provided and shall make and file and keep on file in his office a report of such examination, which shall show whether the system so examined meets the requirements set forth in Subdivision 4 of this section. If the report states that the system meets

those requirements, it shall be approved and the system may be adopted for use at elections as provided in this section.

"(b) Before making and filing his report, the Secretary of State shall require the system to be examined by three examiners to be appointed by the Secretary of State for such purpose, one of whom shall be expert in patent law, one of whom shall be expert in electronic data processing, and one of whom shall be expert in election law and procedure, and shall require from them a written report on their examination, which shall be attached to the Secretary of State's report and kept on file. Each examiner shall receive one hundred and fifty dollars as his compensation and expenses in making the examination and report. Neither the Secretary of State nor any examiner shall have any pecuniary interest in any electronic voting system. When a system has been approved, any improvement or change that does not impair its accuracy, efficiency, or capacity shall not make necessary a reexamination or reapproval thereof. Any electronic voting system not approved as herein provided cannot be used at any election in this state.

"Subdivision 4. Requirements for Electronic Voting Systems. (a) Any electronic voting system approved by the Secretary of State must meet the following requirements:

"(1) It must permit voting in absolute secrecy, except in the case of voters who have received assistance as provided in this code.

"(2) It shall permit each voter:

"(A) to vote at any election for all persons and offices for whom and for which he is lawfully entitled to vote, and no others;

"(B) to vote, in a general election, for any person for any office, whether or not nominated as a candidate by any party but whose name is legally on the ballot as an independent candidate;

"(C) to vote for a person whose name does not appear on the ballot, in any election and for any office where write-in votes are permitted by law;

"(D) to have his vote counted for no more than one person for the same office, unless permitted by law, and at the same time prevent his vote from being counted more than

once for the same person for the same office;

"(E) to vote for or against any question upon which he is entitled to vote;

"(F) to vote, by means of a single mark or punch, for all candidates of one party or to vote a split ticket as he desires.

"(b) No electronic voting system shall be approved by the Secretary of State unless he finds that it is suitable for the purpose for which it is intended, and that it will operate efficiently and accurately and provide adequate safeguards against fraudulent manipulation under the conditions under which it is intended to be used.

"(c) In his certification of approval of any electronic voting system, the Secretary of State shall certify whether in cases where a voter splits a straight party vote, the system is capable of counting the straight party vote only for the candidates of that party for offices as to which the voter has not voted for individual candidates and of counting the votes cast for individual candidates. If the system is so certified, the voting of a split ticket in that manner shall be allowed in elections using that system.

"Subdivision 5. Adoption by Commissioners Court. (a) The commissioners court of any county in the state may adopt one or more kinds of approved electronic voting systems for use in elections in part or all of the election precincts in the county. If a particular system is not adopted for use throughout the county, the commissioners court shall designate the precincts, which shall be not less than three in number, in which such system is to be used, and any other authorized method of voting may be used in the remaining precincts. The court may provide that any precinct designated for use of a particular electronic voting system the voting in that precinct may be supplemented by use of some other authorized method of voting when in any election it appears that the number of available units of the system designated for use in that precinct is inadequate for that election; and the officer or board charged with the duty of furnishing supplies of the election may make such supplementation under those conditions.

"(b) The commissioners court at any time may rescind or modify its previous order or orders adopting any electronic voting system and may discontinue use of the system altogether, but use of the system shall be retained in at least three of the voting precincts if retained for use in any part of the county.

"(c) The electronic voting system adopted by the commissioners court shall be used at the biennial general elections for state and county officers in all precincts designated by the court for use of such system. In all other elections, general, special, or primary, the authority holding the election shall determine within its discretion whether the voting in such precincts for the particular election shall be by use of such system or by some other authorized method of voting in any or all of the precincts for which the system has been adopted. The determination shall be made by the commissioners court in elections held at the expense of the county, by the governing body of the municipality or political subdivision in elections held by municipalities and other political subdivisions, and by the county executive committee of the party holding the election in primary elections of political parties.

"Subdivision 6. Experimental Use of Electronic Voting Systems. The commissioners court of any county in the state may secure, for experimental use at election in one or more precincts without formal adoption thereof, any kind of electronic voting system approved by the Secretary of State, and its use at any election in such precinct within the period specified by the commissioners court for experimental use of such electronic voting system shall be as valid for all purposes as if it has been formally adopted; provided, however, that the period for experimental use shall not exceed two years from the date of the order authorizing its use.

"Subdivision 7. Providing Voting Equipment. The commissioners court of a county which has adopted an electronic voting system for that county or any portion thereof, shall as soon as practicable and in no case later than six months after adoption thereof, provide for each election precinct designated the voting equipment which the court deems neces-

sary for accommodation of voters in the general election for state and county officers, and shall thereafter preserve and keep such equipment in repair. The commissioners court may also, if it deems such action in the best interests of the county, provide for the county a suitable number of pieces of automatic tabulating equipment for use in the central counting stations in the county.

"Subdivision 8. Payment for Voting Equipment and Automatic Tabulating Equipment. (a) The commissioners court shall provide for the payment for voting equipment and automatic tabulating equipment to be used in such county in such manner as the court may deem for the best interests of the county, and for the purpose of paying for such voting equipment or automatic tabulating equipment, or both, the commissioners court is hereby authorized to issue bonds, certificates of indebtedness, warrants, or other obligations to be used for this purpose and no other, which shall be a charge against the general revenue fund of the county. Such bonds, certificates of indebtedness, warrants, or other obligations may be issued with or without interest payable at such time or times as the commissioners court may determine, but shall never be issued or sold for less than par. The commissioners court shall issue such bonds, certificates of indebtedness, warrants, or other obligations in the same manner and with the same authority as provided for the issuance of bonds, certificates of indebtedness, warrants, or other obligations by the general laws of this state. The necessary tax shall be set aside at the time of creating such obligation so as to meet the debt provisions of the Constitution.

"(b) If the commissioners court of any county deems it for the best interests of such county, the Court is hereby authorized to contract for the renting of an electronic voting system or any portion thereof by such county for use in elections for a term of not more than five years in any one contract of rental. Upon expiration of such terms of contract of rental, the commissioners court may renew or extend the contract from time to time. The commissioners court of any county is also authorized to accept proposals of rental and/or sale of electronic voting systems or

any part thereof wherein the rentals paid by such county for the use of such an electronic voting system or a part of the rentals may be applied on the purchase price of such system if the commissioners court determines that it is to the best interest of the county to do so.

"(c) The voting equipment and automatic tabulating equipment shall be the property of the county paying for or renting it, subject to the terms of the rental contract. When used in any election not held at the expense of the county, the voting equipment and county-owned tabulating equipment so used shall be leased to the authority holding the election, and payment shall be received by the county at such lease price as the commissioners court shall fix for each piece of voting equipment or tabulating equipment used, but not to exceed ten percent of the original cost of the unit for each election day such equipment is used; and the authority charged with the expense of holding the election shall pay the lease price, whether it be a municipality or other political subdivision, a political party, or any other organization or authority.

"(d) Notwithstanding any other provision of this subdivision, the commissioners court may enter into agreements with the owners or lessees of automatic tabulating equipment located at central counting stations designated by the court pursuant to this section, under which the authority holding the election will pay to such owner or lessee a stipulated charge for use of the equipment under such terms as may be agreed upon. Any such agreement shall be for a term of not more than two years, but it may be renewed or extended from time to time.

"Subdivision 9. Absentee Voting. (a) In any election in which an electronic voting system is to be used in all or part of the voting precincts, the authority charged with holding the election shall within its discretion determine by proper resolution or order whether or not an electronic voting system shall be used for absentee voting by personal appearance at such election. If the electronic voting system is to be used for such absentee voting and more than one kind of system has been adopted by the commissioners court, the authority shall specify what kind is to be used.

"(b) If the authority holding the election determines that an electronic voting system shall be used for absentee voting by personal appearance, the necessary ballots and voting equipment shall be provided in the clerk's office. The procedure for absentee voting by personal appearance where paper ballots are used shall be followed insofar as it can be made applicable. The clerk shall enter on a poll list the name of each such voter at the time he votes. If an electronic voting system is used for voting by personal appearance and the absentee ballots voted by mail are counted manually, such ballots shall be counted by a special canvassing board as provided in Subdivision 6 of Section 37 of this code. The board shall also prepare the voted electronic voting system ballots for delivery to the central counting station in the manner provided in Subdivision 19 of this section, and such ballots shall be delivered to the central counting station and there tabulated, as provided in Subdivisions 19 and 20 of this section. The presiding judge shall add the results of any manually counted ballots and the results of any write-in votes to the tabulation made on the automatic tabulating equipment and shall make returns showing the totals thus obtained.

"(c) When absentee ballots voted by personal appearance are to be marked with an ordinary pen or pencil in the manner that ordinary paper ballots are marked, and the absentee ballots are to be counted manually, the ballots shall be handled in the manner provided in Section 37 of this code for the handling of absentee paper ballots, and shall be counted and tallied by a central canvassing board or by the precinct election officers, as the case may be, in the same way that paper ballots are tallied. Absentee ballots sent to precinct polling places for counting shall be added to the results for ballots cast at the polling place.

"(d) When absentee voting is conducted by paper ballots, the ballots prepared for use in the electronic voting system may be used, if practicable, in the absentee voting both by personal appearance and by mail; otherwise, the ballots shall be prepared as ordinary paper ballots provided for in this code.

"(e) The authority holding the election may authorize true copies of

paper absentee ballots voted by personal appearance or by mail to be made on electronic voting system ballots in the presence of watchers and the ballots counted and tabulated in the manner provided in Subdivision 19 and 20 of this section. Both the original ballot and the duplicate shall be preserved. Each duplicate ballot shall be clearly labeled by the word 'Duplicate' and shall bear a serial number, which shall also be recorded on the original ballot.

"Subdivision 10. Instruction of Election Officers. Not less than three days before an election, the authority holding the election shall cause to be held a public school of instruction on the use of the electronic voting system for those who will conduct the election at the polling places and those who will be at the central counting station, such school to be open to any interested person. Notice of the meeting shall be given to the public press at least 48 hours before it is to be held.

"Subdivision 11. Form of the Ballot. (a) Except as otherwise provided herein, the ballot for electronic voting systems shall conform to the applicable provisions of this code governing voting by ordinary paper ballots to the extent that they are consistent with the use of electronic voting systems.

"(b) This paragraph (b) shall govern the form of the ballot to be used with electronic voting systems in which the voter records his votes on a ballot on which the names of offices, candidates and parties and statements of measures to be voted on are set forth in a manner similar to ordinary paper ballots.

"(1) Ballots may be of such size, composition, texture, and color (other than yellow, which shall be used for sample ballots only), and may be printed in any type of ink or combination of inks that will be suitable for use in the automatic tabulating equipment in which they are intended to be placed. Printing on the ballots shall be of such size that it will be clearly legible when read by the voter in the manner contemplated by the voting system being used.

"(2) The ballots may contain printed code marks or pre-punched holes necessary for placing the ballots in correct reading position in the tabulating equipment, but the code marks or pre-punched holes shall not

be used in any way that will reveal the identity of the voters voting the ballots.

"(3) The ballot may be divided into parts and printed upon two or more pages. Where all candidates for the same office or all party columns cannot be placed on the same face of the same page, the candidates or columns may be carried on more than one page, but in such event the first page of the sequence shall contain a statement that the names of other candidates or other party columns appear on the following page or pages. If the ballot is printed on more than one page, different tints of paper other than yellow, or some other suitable means may be used to facilitate the sorting of ballots. Each page shall bear the ballot number, and other appropriate provision may be made for identifying the related parts of the ballot. When party columns appear on the ballot, there shall be printed at the head of the ballot the names of the parties and a space for voting a straight party ticket.

"(4) Each ballot shall have attached at the top a detachable stub of such size and placement on the ballot as is appropriate for the tabulating equipment to be used for counting the ballots. The stub shall contain the printing specified in Section 61 of this code, and shall contain no other printing or writing, except that it may contain the instructions for marking the ballot.

"(c) This subparagraph (c) shall govern the form of the ballot to be used with electronic voting systems in which the names of offices, candidates and parties and statements of measures to be voted on are set forth on ballot labels attached to a voting device and the voter records his vote by marking or punching a ballot card which is placed upon or inserted in the voting device.

"(1) Ballot cards may be of such size, composition, texture and color (other than yellow, which shall be used for sample ballots only) and may be printed in any type of ink or combinations of ink that will be suitable for use in the automatic tabulating equipment in which they are intended to be placed. Ballot labels may be of such size, composition, texture and color (other than yellow) that will be suitable for use on the voting device on which they are placed. Printing on the ballot label shall be of such size that it will be

clearly legible when read by the voter in the manner contemplated by the voting system being used.

"(2) Ballot cards may contain printed code marks or prepunched holes to assure that the card is properly positioned in the voting device or to assure that the card is placed in correct reading position in the tabulating equipment, but the code marks or prepunched holes shall not be used in any way that will reveal the identity of the voters voting the ballots.

"(3) The names of candidates, offices, parties and statements of issues to be voted on may be printed on two or more ballot labels placed on the voting device. Where all candidates for the same office or all party columns cannot conveniently be placed on the same face of the same label, the candidates or columns may be carried on more than one page, but in such event the first page of the sequence shall contain a statement that the names of other candidates or other parties appear on the following page or pages. If the ballot is printed on more than one ballot label, different tints of paper, other than yellow, may be used for different pages of the ballot labels, and other suitable means may be adopted to facilitate the use of the ballot labels with the ballot card. When party columns appear on the ballot there shall be printed at the head of the ballot the names of the parties and a space for voting a straight ticket.

"(4) In elections in which party columns appear on the ordinary paper ballot, the following method of showing party affiliations may be used in lieu of party columns. The title of each office shall be printed on the party labels followed by the names of the candidates for that office and their party affiliations, if any. Provisions shall be made on the first page of the ballot labels for voting a straight party ticket, and the candidate of the party which is printed in the first party column on paper ballots shall be printed in the first position under the office title, the candidate of the party which is printed in the second column on paper ballots shall be printed in the second position, and so on. Uncontested races may be listed separately from contested races under the heading "Uncontested Races."

"(5) Each ballot card shall have

attached at the top a detachable stub of such size and placement on the card as is appropriate for the tabulating equipment to be used for counting the ballots. The stub shall contain the printing specified in Section 61 of this code, and shall contain no other printing or writing, except that it may contain the instructions for marking the ballot.

"(6) If the number of candidates and/or propositions to be voted upon in any election exceeds the capacity of one voting device, the ballot may be divided into parts and a different voting device used for each of the separate parts. A separate voting device shall be provided for each part at each polling place, but in all cases where more than one device is necessary to list the entire ballot, the names of all candidates for any particular office shall be placed on one device. Each ballot card shall bear the ballot number, and other appropriate provisions may be made for identifying the related ballot cards. In lieu of using an additional voting device for listing the ballot, uncontested races may be listed separately under the heading 'Uncontested Races,' with the name of each candidate appearing under the title of the office for which he is a candidate, and if the election is one in which party columns appear on the ballot, the party affiliation of the candidate shall be indicated by printing the name of the party which nominated him (or the word 'Independent' if he is an independent candidate) after the candidate's name; and all such uncontested races may be voted on as a bloc.

"(7) If the authorities holding the election determine, in their discretion, that more than one voting device is necessary to accommodate the number of voters in an election precinct, as many voting devices shall be used for each precinct as such authorities deem necessary, and the same form of ballot containing the names of all candidates and/or propositions arranged in the same manner shall be provided for each device.

"(8) A separate write-in ballot, which may be in the form of an envelope in which the voter places his ballot or ballot card after voting, shall be provided to permit voters to vote for a person whose name does not appear on the ballot.

"(d) This subparagraph (d) shall

apply to the form of the ballot for all electronic voting systems.

"(1) Where officers are to be elected or nominated, there shall be printed on each ballot the following instruction note: 'Vote for the candidate of your choice in each race by placing a punch hole in the space provided adjacent to the name of that candidate.' Where the ballot is to be marked with a marking device using ink or other substance, the word 'mark' shall be substituted for 'punch hole.' Appropriate changes in the instruction note shall be made where only one race is listed on the ballot or where more than one person is to be elected in any given race. Where measures or propositions are to be voted on, the instruction note shall be: 'Place a punch hole (mark) in the space provided beside the statement indicating the way you wish to vote.' The ballots shall also contain instructions on how to vote a straight ticket, how to vote a split ticket, and how to vote for a candidate whose name is not on the ballot. The wording of the instructions shall be prescribed by the Secretary of State.

"(2) The statement of propositions and measures submitted to the voters may be abbreviated on the ballot if necessary, provided there is displayed in each voting booth or place prepared for the voter to mark his ballot the verbatim statement on each proposition or measure as it appears on paper ballots. Abbreviation of matter to be voted on throughout the state shall be done by the Secretary of State.

"Subdivision 12. Sample Ballots and Instruction Cards. The authority charged with providing ballots for an election where an electronic voting system is used shall provide sample ballots and printed instruction cards for voting. Without limitation on other instructions which may be included, the instruction card shall include instruction on how to mark the ballot, how to vote for a person whose name is not printed on the ballot, how to vote a straight ticket or a split ticket where party columns or party affiliations are on the ballot, and how to secure an additional ballot if the ballot is spoiled or marked erroneously. Throughout the time the polls are open, a sample ballot and instruction card shall be posted in each booth or place prepared for the voter to mark his ballot. Extra voting equip-

ment for demonstration purposes may be placed in the polling place.

"Subdivision 13. Instructions to Voters. In addition to the sample ballots and instruction cards hereinbefore mentioned, if any voter desires further instructions, an election officer shall give such instruction without asking, persuading, or otherwise trying to induce such voter to vote for or against any ticket, candidate, or measure, and watchers may be present while such instruction is being given. Finishing instructions, the election officer and watchers shall retire and the voter shall proceed to mark his ballot.

"Subdivision 14. Assistance to Voter. If because of some bodily infirmity a voter is physically unable to operate the voting equipment or to see, he may be assisted by two election officers, or by a person selected by the voter, who shall mark the ballot in accordance with the voter's wishes. The provisions of Section 95 of this code govern the assistance rendered insofar as they can be made applicable.

"Subdivision 15. Ballot Box and Stub Box. For each polling place where an electronic voting system is used, there shall be supplied two ballot boxes for the deposit of voted ballots, which shall be of suitable design and with a suitable opening for placing the ballots therein in such manner that the ballots will not be damaged or rendered unfit for counting on the tabulating equipment. There shall be supplied a stub box prepared in the manner prescribed in Section 97 of this code, except that the opening thereof shall be of such size as necessary, but no larger, to permit the convenient deposit of the ballot stubs used at the election. There shall also be supplied suitable containers for transporting the voted ballots to the central counting station.

"Subdivision 16. Preliminaries of Opening the Polls. There shall be provided for each polling place sufficient voting equipment to accommodate the voters at the election. Before the time set for opening the polls, the presiding judge shall inspect the equipment to ascertain whether it is in good working condition. Each voting booth shall be so placed that it will be in full view of all election officers and watchers at

the polling place but will permit a voter to mark his ballot in secret.

"Subdivision 17. Conduct of the Voting. (a) The procedure at the polls where voting is by use of an electronic voting system shall be the same as at polling places where paper ballots are used, except as provided in this section. Where the portion of the ballot to be marked by the voter consists of more than one page or ballot card, the related parts may be placed in an envelope or otherwise secured so that the parts will not become separated before delivery to the voter. When a voter selects his ballot, he shall be instructed to use only the voting equipment provided for marking the ballot and that he is not to mark his ballot in any other way and is not to place any other marks thereon, except for write-ins. After a voter has marked his ballot, he shall follow the procedure prescribed in Section 97 of this code for signing and detaching the ballot stub and for deposit of the ballot and stub.

"(b) The election officers shall inspect the voting equipment from time to time while voting is in progress to ascertain that it has not been injured or tampered with and is in proper working order. If any equipment becomes out of order at an election, it shall be repaired or replaced as promptly as possible. If repair or replacement cannot be made, the ballots may be marked with a pencil and counted manually in the same manner that paper ballots are counted.

"Subdivision 18. Procedure While Polls Are Open. At any time after the expiration of one hour after the voting has begun, the presiding judge may direct the receiving officers to deliver ballot box No. 1 to the counting officers, who shall immediately deliver in its place ballot box No. 2, which shall be opened and examined and securely closed and locked; and until the boxes are again interchanged, the voters shall deposit their ballots in box No. 2. In this manner, ballot boxes No. 1 and No. 2 may be interchanged periodically as directed by the presiding judge, but the box for receiving the ballots shall not be delivered to the counting officers and the ballots shall not be removed from it at any time before the polls are closed unless there are more than

ten ballots in the box. Once the box for receiving the ballots is delivered to the counting officers, they shall remove the voted ballots from the ballot box and carry out the procedures prescribed in Subdivision 19 of this section preparatory to making the ballots, envelopes, and other materials ready for delivery to the central counting station. The authority holding the election may in its discretion also provide that voted ballots of designated precincts shall be delivered by authorized election officials, in the presence of watchers, to a central counting station at stated intervals during the day and that the processing of such ballots in accordance with the procedures prescribed in Subdivision 20 may begin prior to the close of the polls. Such processing may be limited by the authority holding the election to procedures preparatory to the counting and tabulating of ballots, or the authority holding the election may also permit the preliminary counting and tabulating of ballots with automatic tabulating equipment; but in no event shall any results be disclosed prior to the close of the polls, and all persons connected with the handling and tabulating of the ballots shall be subject to the provisions of Section 105 of this code with respect to revealing information as to the results of the election.

"Subdivision 19. Procedure After Polls Are Closed. (a) As soon as the polls are closed and the last ballot has been deposited in the ballot box, the election officers shall immediately secure or inactivate all voting equipment in the polling place so that no equipment may be used or operated by any unauthorized person. They shall then count the number of names on the poll list, the number of unused ballots and the number of spoiled ballots returned by voters, and shall insert these totals on the report forms provided therefor. They shall then remove from the ballot box all voted ballots not theretofore removed in accordance with Subdivision 18 of this section. They shall examine the ballots for write-in votes and count the votes cast for candidates whose names have been written in; provided, however, that if the voting system is such that write-in votes can be detected and segregated by the tabulating equipment, the counting of write-in votes may be done at the central

counting station. Before any write-in vote is counted, the election officers shall examine the ballot to ascertain whether the write-in vote is valid, and count it only if it is found to be valid. A notation shall be made on the invalid portion of a ballot and it shall be segregated from other ballots and placed in the container provided for that purpose. Write-in votes shall be added to the results of the count of the ballots at the central counting station and be included in the official returns for the precinct. If the ballot consists of more than one part, the precinct election officials, after checking for write-in votes, shall then sort the ballots according to types or parts.

"(b) The authority holding the election shall provide metal or wood ballot containers with numbered metal seals for use in delivering voted ballots from the polling place to the central counting station. A record of the serial numbers of the seals shall be preserved, and a copy of such records shall be furnished the central counting station. All voted ballots which are to be counted by automatic tabulating equipment shall be placed in a ballot container at the polling place for delivery to the central counting station. The poll lists and tally sheets for write-in votes shall be enclosed in envelopes provided for that purpose and placed in the container with the voted ballots. Before sealing the ballot container, the election judge shall execute a certificate in triplicate recording the number of ballots placed in the container and the serial number of the seal. The certificate shall also be signed by an election clerk as witness and by at least two watchers of opposed interests if such there be. The original of the certificate shall be placed in the container with the ballots, and the container shall then be sealed so that no additional ballots may be deposited and no ballots may be removed without breaking the seal. One copy of the certificate shall be immediately mailed to the authority holding the election in a pre-addressed stamped envelope at the nearest post office or postbox by two election officers other than those who deliver the ballot container to the counting station. The other copy of the certificate shall be retained with the election records at the polling place.

"(c) After the ballot container is

sealed, two authorized election officers shall immediately deliver the ballot container to the central counting station, and watchers shall have the privilege of accompanying them and of being present throughout the proceedings at the polling place and at the central counting station. The container shall be opened only by the person in charge of the central counting station or his designated representative, who shall inspect the container and the seal and shall verify the serial number on the seal with the record of serial numbers provided by the authority holding the election and with the original certificate enclosed in the container. Any irregularities shall be reported to the officer in charge of the counting station, who shall take appropriate action. After the container has been opened and the ballots removed, the original certificate and the broken seal shall be preserved with the other permanent election records of the central counting station.

"(d) After the election officers at the polling place have delivered all ballots to the central counting station, the stub box and all other election supplies and records, including all duplicate certificates and unused seals, shall be delivered to the proper authority designated by law to receive them.

"Subdivision 20. Procedure at Central Counting Station. (a) The commissioners court shall establish one or more central counting stations to receive and tabulate voted ballots. A central counting station shall be under the supervision and control of the commissioners court, and all persons employed and designated to handle the ballots or operate the tabulating equipment shall be approved by the commissioners court. No person except one employed and designated for the purpose shall touch any ballot card or ballot container.

"(b) Prior to the start of the count of the ballots, the authority in charge of holding the election shall have the automatic tabulating equipment tested to ascertain that it will accurately count the votes cast for all offices and on all measures. Public notice of the time and place of the test shall be given at least forty-eight hours prior thereto by publication once in one or more daily or weekly newspapers published in the

county, city or other political subdivision where such equipment is used, if a newspaper is published therein, otherwise in a newspaper of general circulation therein. The test shall be conducted by processing a preaudited group of ballots marked or punched so as to record a predetermined number of valid votes for each candidate and on each measure, and shall include for each office one or more ballots which have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject such votes. In such test a different number of valid votes shall be assigned to each candidate for an office, and for and against each measure. If any error is detected, the cause therefor shall be ascertained and corrected and an errorless count shall be made and certified to by the person in charge of the test before the count of the official ballots is started. The tabulating equipment shall pass the same test at the conclusion of the count before the election returns are approved as official. On completion of the test count, the programs and test materials shall be sealed and retained as provided for paper ballots.

"(c) The ballots for the various election precincts shall be separately tabulated by precincts. The ballots for a precinct shall be removed from their containers and prepared for processing by the automatic tabulating equipment. They shall be checked to ascertain that they are properly grouped and arranged so that all similar ballots from the precinct are together.

"(d) The valid portion of a ballot which has been invalidated in part by the election officers as provided in Subdivision 19 of this section may be duplicated in the presence of watchers and substituted for the partially invalidated ballot, which shall be preserved, or such partially invalidated ballots may be counted manually.

"(e) If it appears that a ballot cannot be counted by the automatic tabulating equipment, it may be counted manually or the person in charge of the counting station may cause a duplicate ballot to be made in the presence of the watchers and substituted for the original ballot, which shall be preserved. Each duplicate ballot prepared under either this paragraph or the preceding paragraph shall be clearly labeled with

the word 'Duplicate' and shall bear a serial number, which shall also be recorded on the original ballot.

"(f) Upon completion of the count for each precinct, the presiding judge shall add to the results as so determined the results of the write-in votes as counted and tallied by the precinct election officers and shall thereupon make a written return of the election in the number of copies required for elections where paper ballots are used. The ballots, together with one copy of the returns, the poll list, and the tally list for write-in votes, shall be placed in a wooden or metallic box, which shall be securely locked. The voted ballots and all records of the election shall be delivered to the proper authorities as provided for election precincts where paper ballots are used.

"(g) If for any reason it becomes impracticable to count all or a part of the ballots or ballot cards with tabulating equipment, the authority holding the election may direct that they be counted manually, following as far as practicable the provisions governing the counting of paper ballots.

"(h) If the automatic tabulating equipment used with any electronic voting system produces a printed record of the votes tabulated by such equipment, such printed record to which have been added the write-in and absentee votes shall, after being duly certified, constitute the official return for that precinct.

"Subdivision 21. Applicability of Other Laws. Except as otherwise provided in this section, the provisions of all other laws relating to the conduct of elections shall apply, so far as practicable, to the conduct of elections where electronic voting systems are used."

Amendment 8

Amend Committee Amendment No. 6 to S. B. No. 58 by striking Sec. (3) and substituting in lieu thereof the following: "(3) Amend Section 42 by deleting the comma following the words 'Court of Civil Appeals' on page 38, line 15."

Amendment 9

Amend Senate Bill 58 by adding a new Paragraph (d) following Paragraph (c) of Subdivision 19 of Section 29A, and redesignating the present Paragraph (d) as Paragraph

(e), the new paragraph (d) to read as follows:

"(d) As an alternative to the procedure provided above, the authority holding the election may in its discretion provide pre-locked and pre-sealed ballot boxes for use in designated precincts and require that ballot boxes be delivered to the central counting station in their locked and sealed condition and that the processing of voted ballots required to be performed at the polling place by the above provisions be performed at the central counting station. In that event, the authority holding the election shall provide an adequate number of ballot boxes for each polling place, which shall be locked and sealed prior to delivery. Each ballot box shall be locked in such a way that it may not be opened except with a key of which only the election authority has possession and sealed with a numbered metal seal in such a way that the ballot box may not be opened without breaking the seal. A record of the serial numbers of the seals shall be preserved, and a copy of such record and the keys to the ballot box locks shall be furnished the central counting station. Upon completion of the voting at the polling place, or whenever a ballot box has been inactivated, the ballot box slot through which ballots are inserted shall be closed with a paper seal signed by the election judge, an election clerk, and two watchers of opposed interests if such there be. The ballot box containing the voted ballots shall then be delivered to the central counting station by the election officers in its locked and sealed condition under the same security measures as are provided in Paragraph (c) above for ballot containers. All procedures provided above to be performed at the polling place other than the processing of voted ballots shall be performed by the election officers at the polling place, and copies of all poll lists and reports shall be enclosed in envelopes provided for that purpose and inserted in the final ballot box to be delivered to the central counting station before the ballot box slot is sealed. The ballot box shall be opened at the central counting station only by the person in charge or his designated representative, who shall inspect the ballot box, the metal seal and the paper seal and shall verify the serial

number on the metal seal with the record of serial numbers provided by the election authority. Any irregularities shall be reported to the officer in charge of the counting station, who shall take appropriate action. The broken metal and paper seal shall be preserved with the other permanent election records of the central counting station. After the ballot box has been opened, the voted ballots shall be processed in the manner provided in Paragraph (a) above by authorized central counting station election officers. The presiding judge for the polling place or his designated representative shall have the privilege of being present during such processing, and watchers shall have the privilege of being present throughout the proceedings both at the polling place and the counting station. In the event the election authority permits early processing of ballots at the central counting station as provided in Subdivision 18, emptied ballot boxes may be relocked and resealed at the central counting station by representatives of the election authority for further use at polling places.

Amendment 10

Amend the caption of Senate Bill No. 58 to conform to the body of the bill.

The House amendments were read.

Senator Creighton moved that the Senate concur in the House amendments.

Senator Bates moved that the Senate do not concur in the House amendments but that a Conference Committee be appointed to adjust the differences between the two houses on the bill.

Senator Strong raised the Point of Order that the motion not to concur was not a proper substitute for a motion to concur.

The President sustained the Point of Order.

Question on the motion that the Senate concur in the House amendments, "Yeas" and "Nays" were demanded.

The motion prevailed by the following vote:

Yeas—14

Aikin

Bernal

Christie
Connally
Creighton
Hall
Herring
Mauzy

Moore
Patman
Reagan
Strong
Wade
Word

Nays—13

Bates
Berry
Brooks
Grover
Hardeman
Harrington
Hazlewood

Jordan
Parkhouse
Ratliff
Schwartz
Watson
Wilson

Paired—2

Blanchard

Hightower

Absent—Excused

Cole

Kennard

PAIRS

Senator Blanchard (present), who would vote "Yea," with Senator Cole (absent), who would vote "Nay."

Senator Hightower (present), who would vote "Yea," with Senator Kennard (absent), who would vote "Nay."

House Bill 1095 on Second Reading

On motion of Senator Connally and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H. B. No. 1095, A bill to be entitled "An Act implementing the provisions of Section 1-d, Article VIII, Constitution of the State of Texas, relating to assessment of lands designated for agricultural use; and declaring an emergency."

The bill was read second time.

Senator Connally offered the following Committee Amendment to the bill:

Amend H. B. No. 1095, Section 8, Sub-section (b) on line 21 by deleting "January 31," and substituting in lieu thereof the following:

"April 1 of the year in which tax relief is sought."

The Committee Amendment was read and was adopted.

Senator Connally offered the following Committee Amendment to the bill:

Amend H. B. No. 1095, Section 2, Sub-section (1) by inserting the following after the word "flowers": "and growing of timber under sustained yield management,".

The Committee Amendment was read and was adopted.

On motion of Senator Connally and by unanimous consent the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

Record of Votes

Senators Strong and Schwartz asked to be recorded as voting "Nay" on the passage of the bill to third reading.

House Bill 1095 on Third Reading

Senator Connally moved that the Constitutional Rule and Senate Rule 32 requiring bills to be read on three several days be suspended and that H. B. No. 1095 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—23

Aikin	Herring
Bernal	Hightower
Blanchard	Mauzy
Brooks	Moore
Christie	Patman
Connally	Ratliff
Creighton	Reagan
Grover	Wade
Hall	Watson
Hardeman	Wilson
Harrington	Word
Hazlewood	

Nays—3

Jordan	Strong
Schwartz	

Present—Not Voting

Parkhouse

Absent

Bates	Berry
-------	-------

Absent—Excused

Cole	Kennard
------	---------

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

Message From the House

Hall of the House of Representatives

Austin, Texas,

May 19, 1967.

Hon. Preston Smith, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H. C. R. No. 45, Relating to the sale, prescription, use, possession, and transportation of narcotics and dangerous drugs.

H. C. R. No. 126, Creating a Committee on State and Local Tax Policy.

H. C. R. No. 134, Conducting a study in depth of title insurance reserves.

H. C. R. No. 135, Congratulating Tommy "Snuff" Garrett.

H. B. No. 1111, A bill to be entitled "An Act relating to the defacing or damaging of caves or caverns; providing a penalty; and declaring an emergency."

H. B. No. 872, A bill to be entitled "An Act providing for the compensation of the official shorthand reporters of the 117th, 94th, 28th and 105th Judicial District Courts, the Court of Domestic Relations of Nueces County, Texas, and the County Courts at Law Nos. 1 and 2 of Nueces County, Texas; providing the manner of payment; repealing Acts 1963, 58th Legislature, page 784, Chapter 302 (codified as Article 2326j-32, Vernon's Texas Civil Statutes of the State of Texas); and declaring an emergency."

H. B. No. 1262, A bill to be entitled "An Act amending Section 10 of H. B. No. 19, Chapter 20, Acts of the 57th Legislature, 3rd Called Session, 1962 (codified as Article 8280-271 of Vernon's Texas Civil Statutes), so as to authorize the Memorial Villages Water Authority to enter into contracts with cities and others for any period of time not to exceed 50 years for supplying water

and sewer services, or for the rental or leasing, or for the operation of water production, water supply, water filtration, purification, or sewerage system or facilities by the Authority or by such cities; and declaring an emergency."

H. B. No. 1267, A bill to be entitled "An Act relating to fixing the minimum and maximum salary of the Official Shorthand Reporter for the 46th Judicial District of Texas; and declaring an emergency."

H. B. No. 339, A bill to be entitled "An Act to require depuration of shellfish in Texas, to be known as the Texas Depuration Act; defining terms; prohibiting sale, shipment, delivery, holding or offering for sale of shellfish for human consumption unless same has been subjected to depuration process; requiring licenses of certain shellfish processors, shippers, importers and sellers; authorizing the Board of Health to prescribe methods of purtion, and to make rules and regulations; providing for certification, inspection and suspension of certification of depuration facilities; requiring the Commissioner of Health of prescribe identification and marking and prohibiting movement of retail sale or delivery of shellfish without marking; prohibiting falsification of marking and fixing penalty; prohibiting licensees from certain handling of unmarked shellfish; requiring the Commissioner of Health as to marking shellfish imported into Texas; providing for bonds; excepting heat sterilized shellfish; authorizing confiscation; permitting municipalities to regulate; providing for enforcement and penalties; providing severability; and declaring an emergency."

H. B. No. 808, A bill to be entitled "An Act relating to payment for care of patients residing outside the limits of a hospital district; amending Section 5, Chapter 266, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 4494n, Vernon's Texas Civil Statutes); and declaring an emergency."

H. B. No. 932, A bill to be entitled "An Act permitting the termination of perpetual trust funds for cemeteries of municipalities in counties with a population of more than 100,000 and less than 136,000; and declaring an emergency."

H. B. No. 523, A bill to be entitled "An Act amending Article 603, Penal Code of the State of Texas, to permit prosecution for wife or child desertion in the county where such wife or child shall have resided for one month next preceding the filing of the indictment or information; and declaring an emergency."

H. B. No. 786, A bill to be entitled "An Act relating to the responsibility of certain adults for the conduct of a delinquent child; amending Chapter 204, Acts of the 48th Legislature, 1943, as amended (Article 2338-1, Vernon's Texas Civil Statutes), by adding a new Section 13-C, providing for restitution by the parents to parties whose persons or property were injured by the acts of a delinquent child; providing for enforcement by contempt; also providing for the requirement of responsibility of persons in whose custody a delinquent child is released to enforce the terms of probation, enforceable by contempt proceedings; and declaring an emergency."

H. B. No. 847, A bill to be entitled "An Act relating to the registration of motor vehicles by new residents of this State; providing a time period for issuance of operator's, commercial operator's, or chauffeur's licenses to new residents of this State; amending Subsection (a), Section 2, Chapter 88, Acts of the 41st Legislature, 2nd Called Session, 1929, as amended (Article 6675a-2, Vernon's Texas Civil Statutes); amending Section 2, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes); repealing Section 14, Chapter 110, Acts of the 47th Legislature, Regular Session, 1941 (Article 6675-16, Vernon's Texas Civil Statutes); and declaring an emergency."

H. B. No. 579, A bill to be entitled "An Act relating to fees collected by sheriffs and constables; amending Section 1, Chapter 696, Acts of the 59th Legislature, Regular Session, 1965 (Article 3933a, Vernon's Texas Civil Statutes); repealing Article 3933, Revised Civil Statutes of Texas, 1925, as amended; and declaring an emergency."

H. B. No. 803, A bill to be entitled "An Act relating to the requirements for annexing territory to certain

drainage districts; amending Section 1(1), Chapter 345, Acts of the 55th Legislature, Regular Session, 1957 (Article 8176b-1, Vernon's Texas Civil Statutes); and declaring an emergency."

H. B. No. 865, A bill to be entitled "An Act relating to the seizure and sale of property to collect delinquent taxes; amending Chapter 1, Title 122A, Revised Civil Statutes of Texas, 1925, as amended, by adding Article 1.15; repealing Section (H), Article 20.09, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended; and declaring an emergency."

H. B. No. 1236, A bill to be entitled "An Act relating to the creation of the Willow Creek Water Control District as a conservation and reclamation district in portions of Runnels and Tom Green Counties under the provisions of Section 59, Article XVI, of the Constitution of the State of Texas; prescribing the powers, duties, functions, and procedures of the district; and declaring an emergency."

H. B. No. 1239, A bill to be entitled "An Act to amend Sections 4 and 5 of Chapter 273, Acts of the 55th Legislature, Regular Session, 1957, as amended (Article 8280-200, V.A.T.C.S.), relating to Elm Creek Watershed Authority so as to more fully define and expand the powers of the same, including the power to establish a program of improvements for improvement districts within the Authority, the power to adopt a plan of taxation, and the issuance of bonds against the faith and credit of such improvement districts; prescribing procedures for the exercise of such powers; providing the authority shall have the powers and privileges as it may choose to exercise from those conferred upon boards of directors of water control and improvement districts; repealing laws to the extent of conflict herewith; providing a severance clause, making certain findings in connection with published notices of intention to apply for the passage hereof; and declaring an emergency."

H. B. No. 1247, A bill to be entitled "An Act amending Article 1577, Revised Civil Statutes of Texas, 1925, as amended, relating to the sale of

real property by counties; and declaring an emergency."

H. B. No. 1250, A bill to be entitled "An Act relating to the creation of the Elm Creek Water Control District as a conservation and reclamation district in portions of Runnels and Taylor Counties under the provisions of Section 59, Article XVI of the Constitution of the State of Texas; prescribing the powers, duties, functions, and procedures of the district; and declaring an emergency."

H. B. No. 1252, A bill to be entitled "An Act relating to the salary and expenses of the ex officio county superintendent of schools and the salary of assistant to the ex officio county superintendent of schools in certain counties; amending Subsection (a), Section 1, Chapter 212, Acts of the 58th Legislature, 1963 (Article 2688j), Vernon's Texas Civil Statutes; and declaring an emergency."

H. B. No. 1263, A bill to be entitled "An Act relating to compensation of the official shorthand reporter of the 32nd Judicial District; and declaring an emergency."

H. C. R. No. 129, Creating a special interim committee.

H. C. R. No. 130, Granting permission to the General Insurance Company of America to sue the State of Texas.

H. C. R. No. 132, Granting permission to Forrest Rotrammel to sue the Texas Highway Department and the State of Texas.

H. B. No. 20, A bill to be entitled "An Act defining and regulating the business of giving bail in criminal and quasi-criminal cases, actions or proceedings; providing for the licensing of persons or corporations who engage in that business in any County in the State of Texas, with a population in excess of 100,000 as taken by the last official Federal census, or in Counties of a lesser population if the Sheriff and County Judge in such County agree that a need exists and wish to comply with this Act; providing for the appeal from the County Bail Bond Control Board, providing for the administration of this Act by the County Bail Bond Control Board; providing for licensing fees; providing certain penalties;

declaring legislative intent and declaring an emergency."

H. B. No. 710, A bill to be entitled "An Act making unlawful the use of force or violence, or threats thereof, to prevent, or attempt to prevent, any person from engaging in lawful and peaceful picketing within this state, thereby supplementing the existing provisions of law which now make such conduct unlawful to prevent, or attempt to prevent, any person from engaging in any lawful vocation within this state and providing penalties for the violation thereof; making it unlawful for any person acting in concert with other persons to assemble at or near where a labor dispute exists and prevent or attempt to prevent by force or violence any person from engaging in lawful and peaceful picketing within this state, and making it unlawful to encourage and aid such unlawful assemblage thereby supplementing existing provisions of law which now make such conduct unlawful to prevent or attempt to prevent by force or violence any person from engaging in a lawful vocation and providing penalties for the violation thereof; amending Section 1 and 2, Chapter 100, Acts of the 47th Legislature, Regular Session, 1941 (Article 1621b, Vernon's Texas Penal Code); making the provisions of this Act cumulative of existing laws; providing a saving clause; and declaring an emergency."

H. B. No. 821, A bill to be entitled "An Act relating to the lien on property for taxes due to the State; providing for priority of the lien; providing for filing notice of the lien; providing for assignment of the lien and judgments and the subrogation of the State's rights; providing for liability in case of preferential transfers and creating a lien and cause of action against the transferee; providing for liability in case of failure to withhold or collect taxes; providing that the lien shall continue until the taxes secured by it are paid; providing for actions to determine the status of the lien; amending Subdivisions (1) and (2), Article 1.07, and Article 1.07A and Article 1.07B, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended; repealing Article XXI, Chapter 184, Acts of the 47th Legislature, Regular Session, 1941 (Article 7083b, Vernon's Texas Civil

Statutes); and declaring an emergency."

H. B. No. 1271, A bill to be entitled "An Act amending Section 2, Chapter 25, Acts of the 55th Legislature, 1st Called Session, 1957, so as to alter and decrease the size of the Ecleto Creek Watershed District; and declaring an emergency."

H. B. No. 1318, A bill to be entitled "An Act providing for open court hearings and public records in cases involving juveniles charged with felonies; amending Sections 13 and 15, Chapter 204, Acts of the 48th Legislature, 1943; and declaring an emergency."

Respectfully submitted,

DOROTHY HALLMAN,
Chief Clerk, House of Representatives

House Bill 475 Ordered Not Printed

On motion of Senator Blanchard and by unanimous consent H. B. No. 475 was ordered not printed.

Senate Bill 304 on Second Reading

Senator Connally asked unanimous consent to suspend the regular order of business and take up S. B. No. 304 for consideration at this time.

There was objection.

Senator Connally then moved to suspend the regular order of business and take up S. B. No. 304 for consideration at this time.

The motion prevailed by the following vote:

Yeas—20

Bates	Herring
Bernal	Jordan
Brooks	Mauzy
Christie	Moore
Connally	Parkhouse
Creighton	Ratliff
Hall	Schwartz
Hardeman	Wade
Harrington	Watson
Hazlewood	Word

Nays—7

Aikin	Reagan
Blanchard	Strong
Grover	Wilson
Patman	

Absent

Berry	Hightower
-------	-----------

Absent—Excused

Cole

Kennard

The President laid before the Senate on its second reading and passage to engrossment:

S. B. No. 304, A bill to be entitled "An Act regulating the business conduct of livestock markets; creating a livestock market board; vesting authority for the administration of the Act in the board and prescribing its duties and powers; providing for a charter; requiring a showing of financial responsibility and convenience and necessity and annual license; and declaring an emergency."

The bill was read second time.

Senator Connally offered the following Committee Amendment to the bill:

Amend S. B. No. 304 by striking "Director" wherever it appears in Sub-section (a) of Section 5, page 2.

The Committee Amendment was read and was adopted.

Senator Connally offered the following Committee Amendment to the bill:

Amend S. B. No. 304 by inserting a new subsection (b) on page 2, subchapter B, Section 5, line 42 the following:

"(b) The members of the Board serve until their successors are appointed. The board shall meet and elect a chairman and a secretary on or before the 15th day of January of each calendar year. The Commissioner of Agriculture may not serve as chairman of the board. The members of the board serve without remuneration but may be reimbursed for actual expenses incurred in attending meetings of the board called by the chairman of the board."

The subsections (b) and (c) shall be relettered as subsections (c) and (d) to conform to the change.

The Committee Amendment was read and was adopted.

On motion of Senator Connally, and by unanimous consent the caption was amended to conform to the body of the bill as amended.

Question—Shall S. B. No. 304 as amended be passed to engrossment?

Motion to Postpone Consideration of Senate Bill 304

Senator Patman moved that further consideration of S. B. No. 304 be postponed until Tuesday, May 23, 1967, at 2:00 o'clock p.m.

The motion to postpone was lost.

Senate Bill 612 on Second Reading

On motion of Senator Parkhouse and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S. B. No. 612, A bill to be entitled "An Act providing for a Court of Domestic Relations in and for Dallas County to be known as Court of Domestic Relations No. 3 of Dallas County; setting the qualifications; etc.; and declaring an emergency."

The bill was read second time and passed to engrossment.

Record of Vote

Senator Hardeman asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

Senate Bill 612 on Third Reading

Senator Parkhouse moved that the Constitutional Rule and Senate Rule 32 requiring bills to be read on three several days be suspended and that S. B. No. 612 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—28

Aikin	Hightower
Bates	Jordan
Bernal	Mauzy
Berry	Moore
Blanchard	Parkhouse
Brooks	Patman
Christie	Ratliff
Connally	Reagan
Creighton	Schwartz
Grover	Strong
Hall	Wade
Harrington	Watson
Hazlewood	Wilson
Herring	Word

Nays—1

Hardeman

Absent—Excused

Cole

Kennard

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

Record of Vote

Senator Hardeman asked to be recorded as voting "Nay" on the final passage of the bill.

House Bills and Resolution on First Reading

The following bills and resolution received from the House, were read the first time and referred to the Committees indicated:

H. B. No. 56, to Committee on Water and Conservation.

H. B. No. 372, to Committee on Counties, Cities and Towns.

H. B. No. 486, to Committee on State Affairs.

H. B. No. 513, to Committee on Counties, Cities and Towns.

H. B. No. 579, to Committee on Counties, Cities and Towns.

H. B. No. 594, to Committee on Game and Fish.

H. B. No. 657, to Committee on Jurisprudence.

H. B. No. 675, to Committee on Counties, Cities and Towns.

H. B. No. 710, to Committee on Counties, Cities and Towns.

H. B. No. 781, to Committee on State Affairs.

H. B. No. 836, to Committee on Jurisprudence.

H. B. No. 851, to Committee on Counties, Cities and Towns.

H. B. No. 872, to Committee on Counties, Cities and Towns.

H. B. No. 1111, to Committee on Jurisprudence.

H. B. No. 1219, to Committee on Water and Conservation.

H. B. No. 1235, to Committee on Counties, Cities and Towns.

H. B. No. 1236, to Committee on Water and Conservation.

H. B. No. 1243, to Committee on Water and Conservation.

H. B. No. 1250, to Committee on Water and Conservation.

H. B. No. 1295, to Committee on Counties, Cities and Towns.

H. B. No. 1298, to Committee on Counties, Cities and Towns.

H. B. No. 1305, to Committee on State Departments and Institutions.

H. B. No. 1306, to Committee on Counties, Cities and Towns.

H. B. No. 1311, to Committee on Game and Fish.

H. B. No. 1324, to Committee on Game and Fish.

H. J. R. No. 7, to Committee on Constitutional Amendments.

Message From the House

Hall of the House of Representatives
Austin, Texas,
May 19, 1967.

Hon. Preston Smith, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

S. B. No. 402, A bill to be entitled "An Act amending Section 1, Chapter 553, Acts of the 59th Legislature, Regular Session, 1965 (Article 1581g, Vernon's Texas Civil Statutes), to allow the County Judge of certain counties to appoint a County Industrial Commission; and declaring an emergency."

The House has granted the request of the Senate for the appointment of a Conference Committee on Senate Bill No. 295.

House Conferees: Slider, Birkner, Haines, Hendryx, Moore.

The House has concurred in Senate amendments to House Bill No. 354 by a non-record vote.

H. B. No. 1064, A bill to be entitled "An Act prohibiting the use of certain shrimp trawls in the shrimp nursery grounds of Harris, Chambers and Galveston Counties; providing a penalty; and declaring an emergency."

The House refused to concur in Senate amendments to House Bill No. 490 and has requested the appointment of a Conference Committee to consider the differences between the two Houses.

House Conferees: Barton, Cain, Doran, Knapp, Jungmichel.

The House refused to concur in Senate amendments to House Bill No. 491 and has requested the appointment of a Conference Committee to consider the differences between the two Houses.

House Conferees: Barton, Cain, Doran, Knapp, Jungmichel.

The House has concurred in Senate amendments to House Bill No. 956 by non-record vote.

Respectfully submitted,

DOROTHY HALLMAN,
Chief Clerk, House of Representatives

Bills Signed

The President signed in the presence of the Senate after the caption had been read, the following enrolled bills:

S. B. No. 231, A bill to be entitled "An Act fixing the maximum salary for the county road engineer in certain counties; amending Section 1, Chapter 68, Acts of the 58th Legislature, Regular Session, 1963 (Article 3912j, Vernon's Texas Civil Statutes; and declaring an emergency."

S. B. No. 300, A bill to be entitled "An Act relating to the annual salary of the County Road Engineer; amending Section 6, Chapter 178, Acts of the 50th Legislature, 1947, as amended (Article 6716-1, Vernon's Texas Civil Statutes) and declaring an emergency."

S. B. No. 556, A bill to be entitled "An Act relating to the election and terms of office of members of the Board of Trustees in certain independent school districts whose seven members in alternate years (four one year, three the next) are elected for two-year terms; permitting and providing for three-year terms on a 3-2-2 alternating years basis; prescribing the rotation procedure therefor; providing that the provisions of this Act shall be regarded as permissive and cumulative of other laws on the subject; and declaring an emergency."

S. B. No. 342, A bill to be entitled "An Act authorizing certain cities to enter into contracts with conservation and reclamation districts in regard to conveyance, transportation, distribution, sale and repurchase of water; prescribing some of the terms and conditions thereof; authorizing such cities to enter into certain contracts for the sale of water; providing that this act shall be cumulative but that cities electing to make contracts under this act shall be governed solely thereby, any statute, charter provision or ordinance to the contrary notwithstanding; and declaring an emergency."

S. B. No. 359, A bill to be entitled "An Act amending Section 1, Article 22.18, Texas Insurance Code, by adding Article 3.62, concerning attorney's fees and penalties, to the list of Articles which apply to stipulated premium companies; and declaring an emergency."

S. B. No. 566, A bill to be entitled "An Act relating to a quit claim deed between Sam Houston State College and the estate of Wm. Victor Adams, etc.; and declaring an emergency."

S. B. No. 588, A bill to be entitled "An Act authorizing incorporated cities which have heretofore annexed or which shall hereafter annex territory to designate all or any part of such territory so annexed, etc., and declaring an emergency."

S. B. No. 560, A bill to be entitled "An Act to authorize the board of trustees of certain independent school districts to fix the dates of election of trustees on a certain date and to provide for the election of trustees by a majority vote; and declaring an emergency."

S. B. No. 332, A bill to be entitled "An Act relating to the compensation of the official shorthand reporter for the 85th Judicial District of Texas; and declaring an emergency."

Reports of Standing Committees

Senator Hall by unanimous consent submitted the following reports:

Austin, Texas,
May 19, 1967.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Counties, Cities and Towns, to which was referred H. B. No. 1235, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

HALL, Chairman.
CHRISTIE
WORD

Austin, Texas,
May 19, 1967.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Counties, Cities and Towns, to which was referred H. B. No. 513, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

HALL, Chairman.
WORD

Senator Parkhouse by unanimous consent submitted the following reports:

Austin, Texas,
May 19, 1967.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Water and Conservation to which was referred H. B. No. 1219, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

PARKHOUSE, Chairman.

Austin, Texas,
May 19, 1967.

Hon. Preston Smith, President of the Senate.

Sir: We your Committee on Water and Conservation to which was referred H. B. No. 1243, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

PARKHOUSE, Chairman.

House Bill 1001 Ordered Not Printed

On motion of Senator Jordan and by unanimous consent H. B. No. 1001 was ordered not printed.

Recess

Senator Creighton moved that the

Senate take recess until 2:15 o'clock p.m. today.

Senator Ratliff moved that the Senate stand adjourned until 10:30 o'clock a.m. on Monday, May 22, 1967.

Question first on the motion to adjourn until 10:30 o'clock a.m. on Monday, May 22, 1967, "Yeas" and "Nays" were demanded.

The motion was lost by the following vote:

Yeas—8

Creighton	Mauzy
Hazlewood	Moore
Herring	Ratliff
Hightower	Word

Nays—21

Aikin	Harrington
Bates	Jordan
Bernal	Parkhouse
Berry	Patman
Blanchard	Reagan
Brooks	Schwartz
Christie	Strong
Connally	Wade
Grover	Watson
Hall	Wilson
Hardeman	

Absent—Excused

Cole Kennard

Question recurring on the motion to take recess until 2:15 o'clock p.m. today, the motion prevailed.

Accordingly, the Senate at 12:21 o'clock p.m. took recess until 2:15 o'clock p.m. today.

After Recess

The President called the Senate to order at 2:15 o'clock p.m.

Message From the House

Hall of the House of Representatives

Austin, Texas,
May 19, 1967.

Hon. Preston Smith, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

The House has concurred in Senate amendments to House Bill No. 1036 by non-record vote.

The House has concurred in Senate amendments to House Bill No. 1038 by non-record vote.

Respectfully submitted,
DOROTHY HALLMAN,
 Chief Clerk, House of Representatives

Senate Bill 304 on Second Reading

The Senate resumed the consideration of pending business, same being S. B. No. 304 on its second reading and passage to engrossment.

Question—Shall S. B. No. 304 as amended be passed to engrossment?

On motion of Senator Herring and by unanimous consent further consideration of S. B. No. 304 was postponed until 2:00 o'clock p.m. on Tuesday, May 23, 1967.

Reports of Standing Committees

Senator Parkhouse by unanimous consent submitted the following reports:

Austin, Texas,
 May 19, 1967.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Water and Conservation, to which was referred H. B. No. 1250, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

PARKHOUSE, Chairman.

Austin, Texas,
 May 19, 1967.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Water and Conservation, to which was referred H. B. No. 1236, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

PARKHOUSE, Chairman.

Senator Hall by unanimous consent submitted the following reports:

Austin, Texas,
 May 19, 1967.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Counties, Cities and Towns, to which was referred H. B. No. No. 1295, have had

same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

HALL, Chairman.
WORD
CHRISTIE

Austin, Texas,
 May 19, 1967.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Counties, Cities and Towns, to which was referred H. B. No. 1298, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

HALL, Chairman.
WORD
CHRISTIE

Senator Hightower by unanimous consent submitted the following report:

Austin, Texas,
 May 19, 1967.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Game and Fish, to which was referred H. B. No. 594, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

HIGHTOWER, Chairman.

House Bill 1250 Ordered Not Printed

On motion of Senator Ratliff and by unanimous consent H. B. No. 1250 was ordered not printed.

House Bill 1236 Ordered Not Printed

On motion of Senator Ratliff and by unanimous consent H. B. No. 1236 was ordered not printed.

House Bill 1295 Ordered Not Printed

On motion of Senator Hardeman and by unanimous consent H. B. No. 1295 was ordered not printed.

House Bill 1298 Ordered Not Printed

On motion of Senator Hardeman and by unanimous consent H. B. No. 1298 was ordered not printed.

Senate Bill 383 With House Amendment

Senator Connally called S. B. No.

383 from the President's Table for consideration of the House amendment to the bill.

The President laid the bill and the following House amendment before the Senate:

Amendment 1

Amend S. B. 383 by deleting from the printed bill the following:

"Section 1. On line 34 the words 'less than Eight Thousand Dollars,' and on line 35 the words '(\$8,000.00) per annum, nor . . .'"

The House amendment was read.

Senator Connally moved that the Senate concur in the House amendment.

The motion prevailed.

Senate Joint Resolution 32 With House Amendments

Senator Connally called S. J. R. No. 32 from the President's Table for consideration of the House amendments to the resolution.

The President laid the resolution and the following House amendments before the Senate:

Amendment 1

Amend S. J. R. No. 32, paragraph 1 of Sec. 1-e of Section 1 of the resolution by striking the period at the end of the paragraph and adding the following language:

"except the tax levied by Article VII, Sec. 17, for certain institutions of higher learning."

Amendment 2

Amend the submission clause of Section 3 by adding to each proposition, after the date "1978" a comma and the following language: "except the tax levied by Article VII, Sec. 17, for certain institutions of higher learning."

Amendment 3

Amend S. J. R. 32 by adding the following at the end of Sec. 4:

"The publication of this amendment shall be limited to the publication of Sections 1, 2, and 3 of this resolution only."

Senator Connally moved that the Senate concur in the House amendments.

The motion prevailed by the following vote:

Yeas—21

Bernal	Jordan
Berry	Mauzy
Brooks	Parkhouse
Christie	Patman
Connally	Reagan
Creighton	Schwartz
Grover	Strong
Hall	Wade
Hazlewood	Wilson
Herring	Word
Hightower	

Nays—7

Aikin	Harrington
Bates	Ratliff
Blanchard	Watson
Hardeman	

Absent

Moore

Absent—Excused

Cole

Kennard

Point of Order on Motion to Postpone Senate Bill 304

Senator Strong raised the Point of Order that a motion to postpone requires a two-thirds vote of the Members present for the further consideration of S. B. No. 304.

The President over-ruled the Point of Order as it was made too late.

Senate Bill 613 on Second Reading

On motion of Senator Parkhouse and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S. B. No. 613, A bill to be entitled "An Act creating three additional district courts in Dallas County, Texas, to be known as the 190th Judicial District and 191st Judicial District and 192nd Judicial District; providing the term and jurisdiction of said courts; etc.; and declaring an emergency."

The bill was read second time and was passed to engrossment.

Record of Vote

Senator Hardeman asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

Senate Bill 613 on Third Reading

Senator Parkhouse moved that the Constitutional Rule and Senate Rule 32 requiring bills to be read on three several days be suspended and that S. B. No. 613 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—25

Aikin	Jordan
Bates	Mauzy
Bernal	Moore
Berry	Parkhouse
Brooks	Patman
Christie	Ratliff
Connally	Reagan
Creighton	Schwartz
Grover	Wade
Hall	Watson
Hazlewood	Wilson
Herring	Word
Hightower	

Nays—3

Blanchard	Strong
Hardeman	

Absent

Harrington

Absent—Excused

Cole	Kennard
------	---------

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

Record of Votes

Senators Blanchard and Hardeman asked to be recorded as voting "Nay" on the final passage of the bill.

Reports of Standing Committee

Senator Hall by unanimous consent submitted the following reports:

Austin, Texas,
May 19, 1967.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Counties, Cities, and Towns, to which was referred H. B. No. 675, have had the same under consideration, and we are instructed to report it back to the

Senate with the recommendation that it do pass and be printed.

HALL, Chairman.
CHRISTIE
WORD
WADE

Austin, Texas,
May 19, 1967.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Counties, Cities, and Towns, to which was referred H. B. No. 372, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

HALL, Chairman.
WORD
CHRISTIE
WADE

Austin, Texas,
May 19, 1967.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Counties, Cities, and Towns, to which was referred H. B. No. 710, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

HALL, Chairman.
WORD
CHRISTIE

Austin, Texas,
May 19, 1967.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Counties, Cities, and Towns, to which was referred H. B. No. 656, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

HALL, Chairman.
CHRISTIE
WORD

Austin, Texas,
May 19, 1967.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Counties, Cities, and Towns, to which was referred H. B. No. 851, have had the same under consideration, and we are instructed to report it back to the

Senate with the recommendation that it do pass and be printed.

HALL, Chairman.

WORD

CHRISTIE

**Motion to Place
Senate Bill 174 on Third Reading**

Senator Blanchard asked unanimous consent to suspend the regular order of business and take up S. B. No. 174 for consideration at this time.

There was objection.

Senator Blanchard then moved to suspend the regular order of business and take up S. B. No. 174 for consideration at this time.

The motion was lost by the following vote (not receiving two-thirds vote of the Members present):

Yeas—17

Aikin	Hazlewood
Bates	Hightower
Bernal	Parkhouse
Berry	Schwartz
Blanchard	Strong
Christie	Wade
Grover	Wilson
Hall	Word
Hardeman	

Nays—11

Brooks	Mauzy
Connally	Patman
Creighton	Ratliff
Harrington	Reagan
Herring	Watson
Jordan	

Absent

Moore

Absent—Excused

Cole

Kennard

**Motion to Place
House Bill 166 on Second Reading**

Senator Bates asked unanimous consent to suspend the regular order of business and take up H. B. No. 166 for consideration at this time.

There was objection.

Senator Bates then moved to suspend the regular order of business and take up H. B. No. 166 for consideration at this time.

The motion was lost by the follow-

ing vote (not receiving two-thirds vote of the Members present.):

Yeas—18

Bates	Hightower
Bernal	Jordan
Berry	Mauzy
Brooks	Patman
Christie	Ratliff
Grover	Reagan
Hall	Schwartz
Harrington	Wade
Herring	Wilson

Nays—10

Aikin	Hazlewood
Blanchard	Parkhouse
Connally	Strong
Creighton	Watson
Hardeman	Word

Absent

Moore

Absent—Excused

Cole

Kennard

House Bill 1137 on Second Reading

On motion of Senator Bates and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H. B. No. 1137, A bill to be entitled "An Act amending Sections 2 and 4 of House Bill No. 51, Chapter 481, Acts of the Fifty-sixth Legislature, Regular Session, 1959 (Article 2654-1b, Vernon's Texas Civil Statutes), to provide for the operation of non-English speaking children programs for a period of time not to exceed four and one-half months; to provide the formula for determination of salary of classroom teachers for program cost purposes of this Act; and declaring an emergency."

The bill was read second time and passed to third reading.

House Bill 1137 on Third Reading

Senator Bates moved that the Constitutional Rule and Senate Rule 32 requiring bills to be read on three several days be suspended and that H. B. No. 1137 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—29

Aikin	Hightower
Bates	Jordan
Bernal	Mauzy
Berry	Moore
Blanchard	Parkhouse
Brooks	Patman
Christie	Ratliff
Connally	Reagan
Creighton	Schwartz
Grover	Strong
Hall	Wade
Hardeman	Watson
Harrington	Wilson
Hazlewood	Word
Herring	

Absent—Excused

Cole Kennard

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

House Bill 308 on Second Reading

On motion of Senator Aikin and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H. B. No. 308, A bill to be entitled "An Act creating the office of criminal district attorney of Bowie County, and prescribing his powers, duties, and compensation; abolishing the office of county attorney of Bowie County and the office of district attorney of the Fifth Judicial District; and declaring an emergency."

The bill was read second time and passed to third reading.

House Bill 308 on Third Reading

Senator Aikin moved that the Constitutional Rule and Senate Rule 32 requiring bills to be read on three several days be suspended and that H. B. No. 308 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—29

Aikin	Blanchard
Bates	Brooks
Bernal	Christie
Berry	Connally

Creighton	Parkhouse
Grover	Patman
Hall	Ratliff
Hardeman	Reagan
Harrington	Schwartz
Hazlewood	Strong
Herring	Wade
Hightower	Watson
Jordan	Wilson
Mauzy	Word
Moore	

Absent—Excused

Cole Kennard

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

House Bill 710 Ordered Not Printed

On motion of Senator Brooks and by unanimous consent H. B. No. 710 was ordered not printed.

House Bill 656 Ordered Not Printed

On motion of Senator Hazlewood and by unanimous consent H. B. No. 656 was ordered not printed.

House Bill 513 Ordered Not Printed

On motion of Senator Schwartz and by unanimous consent H. B. No. 513 was ordered not printed.

Senate Concurrent Resolution 77

Senator Hardeman offered the following resolution:

S. C. R. No. 77, Authorizing Enrolling Clerk to make certain corrections in Senate Bill 467.

Whereas, Senate Bill 467 has been passed by both the House and the Senate and is now in the Senate Enrolling Room; and

Whereas, A certain minor correction needs to be made in the bill; now, therefore, be it

Resolved by the Senate, the House of Representatives concurring, that the Enrolling Clerk be and is hereby directed to correct the enrolled copy of Senate Bill 467 by changing the word "justifiable" to "justiciable" where it appears in Section 3 on page 2 of said enrolled bill.

KENNARD
HARDEMAN

The resolution was read.

On motion of Senator Hardeman, and by unanimous consent, the resolution was considered immediately and was adopted.

Senate Concurrent Resolution 78

Senator Hardeman offered the following resolution:

S. C. R. No. 78, Authorizing Enrolling Clerk to make certain corrections in Senate Bill 564.

Whereas, Senate Bill No. 564 has been passed by both the Senate and the House and is now in the Senate Enrolling Room; and

Whereas, a certain minor correction needs to be made in the bill; now, therefore, be it

Resolved by the Senate, the House of Representatives concurring, that the Enrolling Clerk be and is hereby directed to correct the enrolled copy of Senate Bill 564 by correcting the caption to conform to the body of the bill.

The resolution was read.

On motion of Senator Hardeman and by unanimous consent, the resolution was considered immediately and was adopted.

Senate Concurrent Resolution 79

Senator Hardeman offered the following resolution:

S. C. R. No. 79, Authorizing Enrolling Clerk to make certain corrections in Senate Bill 400.

Whereas, Senate Bill No. 400 has been passed by both the Senate and the House and is now in the Senate Enrolling Room; and

Whereas, A certain minor correction needs to be made in the bill; now, therefore, be it

Resolved by the Senate of Texas, the House of Representatives concurring, that the Enrolling Clerk be and is hereby directed to correct the enrolled copy of Senate Bill No. 400 by changing the words "provision of" the first time they appear in Sec. 2 on page 3 of said bill to read: "provisions hereof conflict with."

The resolution was read.

On motion of Senator Hardeman, and by unanimous consent, the resolution was considered immediately and was adopted.

House Bill 1243 Ordered Not Printed

On motion of Senator Schwartz and by unanimous consent H. B. No. 1243 was ordered not printed.

House Bill 675 Ordered Not Printed

On motion of Senator Parkhouse and by unanimous consent House Bill No. 675 was ordered not printed.

House Bill 1219 Ordered Not Printed

On motion of Senator Brooks and by unanimous consent H. B. No. 1219 was ordered not printed.

House Bill 355 on Second Reading

On motion of Senator Blanchard and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H. B. No. 355, A bill to be entitled "An Act relating to minimum safety standards for crash helmets and making it a misdemeanor to operate or ride certain motor vehicles on a public street or highway without wearing a crash helmet approved by the Texas Department of Public Safety; and declaring an emergency."

The bill was read the second time.

Senator Herring offered the following amendment to the bill:

Amend Section 1 of H. B. 355 by eliminating the period at the end of said section and adding the phrase "or any three-wheeled vehicle equipped with a cab, seat and seat belt and designed to contain the operator of the vehicle within the cab."

The amendment was read and was adopted.

On motion of Senator Blanchard and by unanimous consent the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

House Bill 355 on Third Reading

Senator Blanchard moved that the Constitutional Rule and Senate Rule 32 requiring bills to be read on three several days be suspended and that H. B. No. 355 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—29

Aikin	Hightower
Bates	Jordan
Bernal	Mauzy
Berry	Moore
Blanchard	Parkhouse
Brooks	Patman
Christie	Ratliff
Connally	Reagan
Creighton	Schwartz
Grover	Strong
Hall	Wade
Hardeman	Watson
Harrington	Wilson
Hazlewood	Word
Herring	

Absent—Excused

Cole

Kennard

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

House Bill 356 on Second Reading

On motion of Senator Blanchard and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H. B. No. 356, A bill to be entitled "An Act relating to the duty of the State Department of Health to recommend policies relating to medical aspects of driver licensing traffic safety, and accident investigation; and declaring an emergency."

The bill was read second time and passed to third reading.

House Bill 356 on Third Reading

Senator Blanchard moved that the Constitutional Rule and Senate Rule 32 requiring bills to be read on three several days be suspended and that H. B. No. 356 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—29

Aikin	Berry
Bates	Blanchard
Bernal	Brooks

Christie	Moore
Connally	Parkhouse
Creighton	Patman
Grover	Ratliff
Hall	Reagan
Hardeman	Schwartz
Harrington	Strong
Hazlewood	Wade
Herring	Watson
Hightower	Wilson
Jordan	Word
Mauzy	

Absent—Excused

Cole

Kennard

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

Senate Concurrent Resolution 80

Senator Hightower offered the following resolution:

S. C. R. No. 80, Authorizing Enrolling Clerk to make certain corrections in S. B. No. 550.

Whereas, Senate Bill No. 550 has been passed by both the Senate and the House and is now in the Senate Enrolling Room; and

Whereas, A certain typographical error needs to be corrected; now, therefore, be it

Resolved by the Senate, the House of Representatives concurring, That the Enrolling Clerk be and is hereby directed to correct the enrolled copy of Senate Bill No. 550 by changing the word "be" to "by" between the words "to" and "some" in the last sentence on page 3 of said enrolled bill.

The resolution was read.

On motion of Senator Hightower and by unanimous consent the resolution was considered immediately and was adopted.

Co-Author of Senate Bill 142

On motion of Senator Christie, and by unanimous consent, he will be shown as co-author of S. B. No. 142.

Reports of Standing Committees

Senator Parkhouse by unanimous consent submitted the following report:

Austin, Texas,
May 19, 1967.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Water and Conservation, to which was referred S. B. No. 614, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass as amended and be printed.

PARKHOUSE, Chairman.

Senator Hall by unanimous consent submitted the following report:

Austin, Texas,
May 19, 1967.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Counties, Cities, and Towns, to which was referred H. B. No. 1306, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

HALL, Chairman.
WORD
HIGHTOWER
CONNALLY
WADE
CREIGHTON
CHRISTIE
BATES
RATLIFF

House Bill 357 on Second Reading

Senator Blanchard asked unanimous consent to suspend the regular order of business and take up H. B. No. 357 for consideration at this time.

There was objection.

Senator Blanchard then moved to suspend the regular order of business and take up H. B. No. 357 for consideration at this time.

The motion prevailed by the following vote:

Yeas—26

Aikin	Grover
Bates	Hall
Bernal	Harrington
Berry	Herring
Blanchard	Hightower
Brooks	Jordan
Christie	Mauzy
Connally	Moore
Creighton	Parkhouse

Patman
Ratliff
Reagan
Schwartz

Strong
Wade
Wilson
Word

Nays—3

Hardeman
Hazlewood

Watson

Absent—Excused

Cole

Kennard

The President laid before the Senate on its second reading and passage to third reading:

H. B. No. 357, A bill to be entitled "An Act relating to compulsory inspection of certain equipment on motor vehicles, trailers, semitrailers, pole trailers, and mobile homes registered in this State; increasing the fees for motor vehicle inspections and for certifications of appointment for State-appointed inspection stations; amending Subsections (a) and (b) of Section 140, Subsection (a), (b), (d), and (e) of Section 141, and Subsection (a) of Section 142, Chapter 421, Acts of the 50th Legislature, Regular Session, 1947, as amended (Article 6701d, Sections 140, 141, and 142, Vernon's Texas Civil Statutes); and declaring an emergency."

The bill was read second time.

Senator Hardeman offered the following amendment to the bill:

Amend H. B. 357, Sec. 2, subsec. (d), by striking out all the language following the word "vehicle" in line 32 and ending with the word "made" in line 36.

The amendment was read and was adopted.

Senator Hardeman offered the following amendment to the bill:

Amend H. B. 357, Sec. 2, subsec. (e), by striking out the language after the word "vehicle" line 44 and ending with the word "state" line 48.

The amendment was read and was adopted.

Senator Hardeman offered the following amendment to the bill:

Amend H. B. 357, Sec. 3 by striking out the language after the word "vehicle" line 1 and ending with the word "Statutes" line 3.

The amendment was read and was adopted.

Senator Blanchard offered the following amendment to the bill:

Amend H. B. 357 as follows:

(1) In quoted Subsection (a), Sec. 2, strike the words and figure "Five Dollars (\$5)" and substitute in lieu thereof "Ten Dollars (\$10)."

(2) In quoted Subsection (d), Sec. 2, strike the words and figure "One Dollar (\$1)" and substitute in lieu thereof "Two Dollars (\$2)."

(3) In quoted Subsection (d), Sec. 2, strike the words and figure "Twenty-five Cents (25¢)" each time it appears and substitute in lieu thereof "Fifty Cents (50¢)."

The amendment was read and was adopted.

Senator Aikin offered the following amendment to the bill:

Amend H. B. 357, Section 2, Subsection (b) by striking out all after the word "vehicle" in paragraph one of said section.

The amendment was read and was adopted.

On motion of Senator Hardeman and by unanimous consent, the vote by which amendments 1, 2, 3, and 5 to H. B. No. 357 were adopted were reconsidered and the amendments were withdrawn.

On motion of Senator Blanchard, and by unanimous consent, H. B. No. 357 was Laid on the Table Subject to Call.

Question—Shall H. B. No. 357, as amended, be passed to third reading?

Message From the House

Hall of the House of Representatives
Austin, Texas,
May 19, 1967.

Hon. Preston Smith, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

The House has concurred in Senate amendments to House Bill No. 346 by vote of 140 ayes, 0 noes and 1 present not voting.

S. B. No. 145, A bill to be entitled "An Act to amend the following Ar-

ticles of the Code of Criminal Procedure, 1965, as amended, namely, etc.; and declaring an emergency."

(With Amendments.)

Respectfully submitted,

DOROTHY HALLMAN,
Chief Clerk, House of Representatives

Senate Bill 617 on First Reading

By unanimous consent the following local bill was introduced, read first time and referred to the Committee indicated:

By Senators Jordan, Brooks, and Grover:

S. B. No. 617, A bill to be entitled "An Act creating the Court of Domestic Relations No. 5 for Harris County; providing for the court's jurisdiction, terms, personnel, administration, and practice; and declaring an emergency."

To the Committee on Counties, Cities, and Towns.

House Bills on First Reading

The following bills received from the House, were read the first time and referred to the committees indicated:

H. B. No. 523, to Committee on Jurisprudence.

H. B. No. 702, to Committee on Counties, Cities and Towns.

H. B. No. 786, to Committee on Jurisprudence.

H. B. No. 795, to Committee on Contingent Expenses.

H. B. No. 803, to Committee on Water and Conservation.

H. B. No. 808, to Committee on Public Health.

H. B. No. 821, to Committee on Counties, Cities and Towns.

H. B. No. 932, to Committee on Counties, Cities and Towns.

H. B. No. 1064, to Committee on Game and Fish.

H. B. No. 1140, to Committee on Jurisprudence.

H. B. No. 1252, to Committee on Counties, Cities and Towns.

H. B. No. 1247, to Committee on Counties, Cities, and Towns.

H. B. No. 1263, to Committee on Counties, Cities and Towns.

H. B. No. 1267, to Committee on Counties, Cities and Towns.

H. B. No. 1271, to Committee on Water and Conservation.

H. B. No. 1272, to Committee on Water and Conservation.

H. B. No. 20, to Committee on Jurisprudence.

House Bill 568 on Second Reading

On motion of Senator Blanchard and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H. B. No. 568, A bill to be entitled "An Act relating to the license of commercial driver training schools and driver training instructors by the Department of Public Safety; and declaring an emergency."

The bill was read second time and passed to third reading.

House Bill 568 on Third Reading

Senator Blanchard moved that the Constitutional Rule and Senate Rule 32 requiring bills to be read on three several days be suspended and that H. B. No. 568 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—29

Aikin	Hightower
Bates	Jordan
Bernal	Mauzy
Berry	Moore
Blanchard	Parkhouse
Brooks	Patman
Christie	Ratliff
Connally	Reagan
Creighton	Schwartz
Grover	Strong
Hall	Wade
Hardeman	Watson
Harrington	Wilson
Hazlewood	Word
Herring	

Absent—Excused

Cole	Kennard
------	---------

The President then laid the bill

before the Senate on its third reading and final passage.

The bill was read third time and was passed.

Message From the House

Hall of the House of Representatives
Austin, Texas,
May 19, 1967.

Hon. Preston Smith, President of the Senate:

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H. B. No. 482, A bill to be entitled "An Act establishing Uniform Standards Code approved by the American Standards Association for installation of plumbing, heating, and electrical systems in mobile homes and travel trailers; to require a license to be issued by the State Highway Department to mobile home and travel trailer dealers and manufacturers engaged in business in this State; to require all mobile homes and travel trailers to bear a Seal of Certification of License issued by the State Highway Department; to provide for reciprocity; to provide for inspection; to establish fees and charges; to provide for enforcement and penalties and provide for restrictions and placement of serial numbers; providing for severability; and declaring an emergency."

Respectfully submitted,

DOROTHY HALLMAN,
Chief Clerk, House of Representatives

Report of Standing Committee

Senator Hall by unanimous consent submitted the following report:

Austin, Texas,
May 19, 1967.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Counties, Cities and Towns, to which was referred S. B. No. 617, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

HALL, Chairman.
WORD
CHRISTIE

Senate Bill 617 Ordered Not Printed

On motion of Senator Jordan and

by unanimous consent S. B. No. 617 was ordered not printed.

Senate Bill 617 on Second Reading

Senator Jordan moved that Senate Rules 13, 32 and 38 and the Constitutional Rule requiring bills to be read on three several days be suspended and that S. B. No. 617 be placed on its second reading and passage to engrossment and on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—29

Aikin	Hightower
Bates	Jordan
Bernal	Mauzy
Berry	Moore
Blanchard	Parkhouse
Brooks	Patman
Christie	Ratliff
Connally	Reagan
Creighton	Schwartz
Grover	Strong
Hall	Wade
Hardeman	Watson
Harrington	Wilson
Hazlewood	Word
Herring	

Absent—Excused

Cole Kennard

The President then laid before the Senate on its second reading and passage to engrossment the following bill:

S. B. No. 617, A bill to be entitled "An Act creating the Court of Domestic Relations No. 5 for Harris County; providing for the court's jurisdiction, terms, personnel, administration, and practice; and declaring an emergency."

The bill was read second time and was passed to engrossment.

Senate Bill 617 on Third reading

The Constitutional Rule requiring bills to be read on three several days having been suspended, the President laid S. B. No. 617 before the Senate on its third reading and final passage.

The bill was read the third time and was passed.

House Bills on First Reading

The following bills received from

the House, were read the first time and referred to the Committees indicated:

H. B. No. 967, to Committee on Counties, Cities and Towns.

H. B. No. 1033, to Committee on Counties, Cities and Towns.

H. B. No. 1239, to Committee on Water and Conservation.

Motion to Place

Senate Bill 142 on Second Reading

Senator Christie asked unanimous consent to suspend the regular order of business to take up and consider S. B. No. 142.

There was objection.

Reports of Standing Committees

Senator Parkhouse by unanimous consent submitted the following report:

Austin, Texas,
May 19, 1967.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Water and Conservation, to which was referred H. B. No. 1239, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass as amended and be printed.

PARKHOUSE, Chairman.

Senator Hightower by unanimous consent submitted the following reports:

Austin, Texas,
May 19, 1967.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Game and Fish, to which was referred H. B. No. 1311, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

HIGHTOWER, Chairman.

Austin, Texas,
May 19, 1967.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Game and Fish, to which was referred H. B. No. 1324, have had the same under consideration, and we are instructed to report it back to the Senate with

the recommendation that it do pass and be printed.

HIGHTOWER, Chairman.

Senator Parkhouse by unanimous consent submitted the following report:

Austin, Texas,
May 19, 1967.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Water and Conservation, to which was referred H. B. No. 1284, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

PARKHOUSE, Chairman.

Senate Bill 145 With Senate Amendments

Senator Bates called S. B. No. 145 from the President's Table for consideration of the House amendments to the bill.

The President laid the bill and the following House amendments before the Senate:

Committee Amendment 1

Amend S. B. No. 145 by striking all below the enacting clause and substituting the following:

Section 1. That Article 1.14 of the Code of Criminal Procedure, 1965, be and the same is hereby amended to read as follows:

"Article 1.14. Waiver of rights

"The defendant in a criminal prosecution for any offense may waive any rights secured him by law except the right of trial by jury in a capital felony case in which the state has made known in open court in writing at least 15 days prior to trial that it will seek the death penalty. No case in which the state seeks the death penalty shall be tried until 15 days after such notice is given. When the state makes known to the court in writing in open court that it will not seek the death penalty in a capital case, the defendant may enter a plea of guilty, nolo contendere, or not guilty before the court and waive trial by jury as provided in Article 1.13, and in such case under no circumstances may the death penalty be imposed."

Sec. 2. That Article 1.15 of the Code of Criminal Procedure 1965, be and the same is hereby amended to read as follows:

"Article 1.15. Jury in felony.

"No person can be convicted of a felony except upon the verdict of a jury duly rendered and recorded, unless in felony cases less than capital, or in capital cases where the state has waived the death penalty the defendant, upon entering a plea, has in open court in person waived his right of trial by jury in writing; provided, however, that it shall be necessary for the state to introduce evidence into the record showing the guilt of the defendant and said evidence shall be accepted by the court as the basis for its judgment and in no event shall a person charged be convicted upon his plea without sufficient evidence to support the same. The evidence may be stipulated if the defendant in such case consents in writing, in open court, to waive the appearance, confrontation, and cross-examination of witnesses, and further consents to the introduction of testimony by affidavits, written statements of witnesses, and any other documentary evidence in support of the judgment of the court. Such waiver and consent must be approved by the court in writing, and be filed, with all of such evidence, in the file of the papers of the cause."

Sec. 3. That Subsection (b) of Article 2.03 of the Code of Criminal Procedure, 1965, be and the same is hereby amended to read as follows:

"(b) It is the duty of the trial court, the attorney representing the accused, the attorney representing the state and all peace officers to so conduct themselves as to insure a fair trial for both the state and the defendant, not impair the presumption of innocence, and at the same time afford the public the benefits of a free press."

Sec. 4. That Article 2.07, Code of Criminal Procedure, 1965, be and the same is hereby amended to read as follows:

"Article 2.07. Attorney pro tem

"(a) Whenever any district or county attorney is disqualified in any case the judge of the court in which it is pending may appoint any district attorney or county attorney or other competent attorney to perform the duties of the prosecuting attorney in such case. If such appointed attorney is another district or county attorney no oath or other act of qualification shall be required of him, but the prosecution of such case shall be deemed as additional to his normal

duties. If the appointed attorney is not a district or county attorney, he will be required only to file an oath of office for that particular case with the clerk of the court.

"(b) Any attorney so appointed (other than a district attorney or county attorney) shall be paid the same amount and in the same manner as an attorney appointed to represent an indigent person."

Sec. 5. That Article 2.12 of the Code of Criminal Procedure, 1965, be and the same is hereby amended to read as follows:

"Article 2.12. Who are peace officers
"The following are peace officers: The sheriff and his deputies, constables, and deputy constables, marshal or police officers of an incorporated city, town or village, rangers and officers commissioned by the Public Safety Commission and the Director of the Department of Public Safety, investigators of the district attorneys', criminal district attorneys' and county attorneys' offices, each member of an arson investigating unit of a city, county or the state, law enforcement agents of the Texas Liquor Control Board, and any private person specially appointed to execute criminal process."

Sec. 6. That the Code of Criminal Procedure, 1965, be and the same is hereby amended by adding a new Article 2.24 to read as follows:

"Article 2.24. Identification of witnesses

"Whenever a peace officer has reasonable grounds to believe that a crime has been committed, he may stop any person whom he reasonably believes was present and may demand of him his name and address. If such person fails or refuses to identify himself to the satisfaction of the officer, he may take the person forthwith before a magistrate. If the person fails to identify himself to the satisfaction of the magistrate, the latter may require him to furnish bond or may commit him to jail until he so identifies himself."

Sec. 7. That Article 11.07 of the Code of Criminal Procedure, 1965, be and the same is hereby amended to read as follows:

"Article 11.07. Return to certain county; procedure after conviction.

"After indictment found in any felony case, and before conviction, the writ must be made returnable in the county where the offense has been committed.

"After final conviction in any felony case, the writ must be made returnable to the Court of Criminal Appeals of Texas at Austin, Texas. The writ may issue upon the order of any district judge, and said judge may upon presentation to him of a petition for said writ, set the same down for a hearing as to whether the writ should issue, and ascertain the facts, which facts shall be transmitted to the Court of Criminal Appeals with the return of the writ if same is issued after such hearing. Provided further, that should such writ be returned to the Court of Criminal Appeals without all the facts deemed necessary by the Court of Criminal Appeals, said court may designate and direct any district judge or judges of this state to ascertain the facts necessary for proper consideration of the issues involved. When a petition for writ of habeas corpus presented to the judge of the convicting court contains sworn allegations of fact, which, if true, would render petitioner's confinement under the felony conviction illegal, the attorney representing the state in said court and the Attorney General of Texas shall be afforded an opportunity to answer such allegations, and if it appears that there are issues of fact which are material on the question of whether the petitioner is illegally restrained which have not been resolved, the petitioner may be granted a hearing on such issues of fact and the judge conducting such hearing shall make and file his findings of fact and conclusions of law. It shall be the duty of the official court reporter of the district judge or judges so designated to forthwith prepare a narration of the facts adduced in evidence upon any such hearing and transmit the same, together with the judge's findings of fact and conclusions of law, to the clerk of the Court of Criminal Appeals within ten days of the date of such hearing. And it shall be the duty of the district clerk of the county wherein the writ is issued to make up a transcript of all pleadings in such case and to transmit the same within thirty days to the clerk of the Court of Criminal Appeals. Provided, that upon good cause shown, the time may be extended by the Court of Criminal Appeals for filing of such narration of facts or transcript.

"The Court of Criminal Appeals may deny relief upon the findings

and conclusions of the hearing judge without docketing the cause, or may direct that the cause be docketed and heard as though originally presented to said court or as an appeal. Upon reviewing the record the court shall enter its judgment remanding the petitioner to custody or ordering his release, as the law and facts may justify. The mandate of the court shall issue to the court issuing the writ, as in other criminal cases. After conviction the procedure outlined in this Act shall be exclusive and any other proceeding shall be void and of no force and effect in discharging the prisoner.

"Upon any hearing by a district judge by virtue of this Act, the attorney for petitioner, and the state, shall be given at least three full days' notice before such hearing is held."

Sec. 8. That Article 14.01 of the Code of Criminal Procedure, 1965, be and the same is hereby amended to read as follows:

"Article 14.01. Offense within view.

"(a) A peace officer or any other person, may, without a warrant, arrest an offender when the offense is committed in his presence or within his view, if the offense is one classed as a felony or as an offense against the public peace.

"(b) A peace officer may arrest an offender without a warrant for any offense committed in his presence or within his view."

Sec. 9. That Article 14.03 of the Code of Criminal Procedure, 1965, be and the same is hereby amended to read as follows:

"Article 14.03. Authority of peace officers

"Any peace officer may arrest, without warrant, persons found in suspicious places and under circumstances which reasonably show that such persons have been guilty of some felony or breach of the peace, or threaten, or are about to commit some offense against the laws."

Sec. 10. That Article 14.06 of the Code of Criminal Procedure, 1965, be and the same is hereby amended to read as follows:

"Article 14.06. Must take offender before magistrate

"In each case enumerated in this Code, the person making the arrest shall take the person arrested or have him taken without unnecessary delay before the magistrate who may have ordered the arrest or before some magistrate of the county where

the arrest was made without an order. The magistrate shall immediately perform the duties described in Article 15.17 of this Code."

Sec. 11. That Article 15.16 of the Code of Criminal Procedure, 1965, be and the same is hereby amended to read as follows:

"Article 15.16. How warrant is executed

"The officer or person executing a warrant of arrest shall without unnecessary delay take the person or have him taken before the magistrate who issued the warrant or before the magistrate named in the warrant, if the magistrate is in the same county where the person is arrested. If the issuing or named magistrate is in another county, the person arrested shall without unnecessary delay be taken before some magistrate in the county in which he was arrested."

Sec. 12. That Article 15.17 of the Code of Criminal Procedure, 1965, be and the same is hereby amended to read as follows:

"Article 15.17. Duties of arresting officer and magistrate

"In each case enumerated in this Code, the person making the arrest shall without unnecessary delay take the person arrested or have him taken before some magistrate of the county where the accused was arrested. The magistrate shall inform in clear language the person arrested of the accusation against him and of any affidavit filed therewith, of his right to retain counsel, of his right to remain silent, of his right to have an attorney present during any interview with peace officers or attorneys representing the state, of his right to terminate the interview at any time, of his right to request the appointment of counsel if he is indigent and cannot afford counsel, and of his right to have an examining trial. He shall also inform the person arrested that he is not required to make a statement and that any statement made by him may be used against him. The magistrate shall allow the person arrested reasonable time and opportunity to consult counsel and shall admit the person arrested to bail if allowed by law."

Sec. 13. That Article 15.26 of the Code of Criminal Procedure, 1965, be and the same is hereby amended to read as follows:

"Article 15.26. Authority to arrest must be made known

"In executing a warrant of arrest, it shall always be made known to the accused under what authority the arrest is made. The warrant shall be executed by the arrest of the defendant. The officer need not have the warrant in his possession at the time of the arrest, provided the warrant was issued under the provisions of this Code, but upon request he shall show the warrant to the defendant as soon as possible. If the officer does not have the warrant in his possession at the time of arrest he shall then inform the defendant of the offense charged and of the fact that a warrant has been issued."

Sec. 14. That Article 17.11 of the Code of Criminal Procedure, 1965, be and the same is hereby amended to read as follows:

"Article 17.11. How bail bond is taken

"Section 1. Every court, judge, magistrate or other officer taking a bail bond shall require evidence of the sufficiency of the security offered; but in every case, one surety shall be sufficient, if it be made to appear that such surety is worth at least double the amount of the sum for which he is bound, exclusive of all property exempted by law from execution, and of debts or other encumbrances; and that he is a resident of this state, and has property therein liable to execution worth the sum for which he is bound.

"Section 2. Provided, however, any person who has signed as a surety on a bail bond and is in default thereon shall thereafter be disqualified to sign as a surety so long as he is in default on said bond. It shall be the duty of the clerk of the court wherein such surety is in default on a bail bond, to notify in writing the sheriff, chief of police, or other peace officer, of such default. A surety shall be deemed in default from the time the trial court enters its judgment nisi until such judgment is satisfied or set aside."

Sec. 15. That Article 18.30 of the Code of Criminal Procedure, 1965, be and the same is hereby amended to read as follows:

"Article 18.30. Disposition of abandoned or unclaimed property

"(a) All unclaimed or abandoned personal property of every kind, except whiskey, wine and beer, seized by any state or county peace officer in the State of Texas which is not

held as evidence to be used in any pending case and has not been ordered destroyed or returned to the person entitled to possession of the same by a magistrate, which shall remain unclaimed for a period of 30 days shall be delivered for sale to the purchasing agent of the county in which the property was seized. If the county has no purchasing agent then such property shall be sold by the sheriff of the county.

"(b) The purchasing agent or sheriff of the county, as the case may be, shall mail a notice to the last known address of the owner of such property by certified mail. Such notice shall describe the property being held, give the name and address of the officer holding such property, and shall state that if the owner does not claim such property within six months from the date of the notice such property will be sold and the proceeds of such sale, after deducting the reasonable expense of keeping such property and the costs of the sale, placed in the county treasury.

"(c) If the owner of such property is unknown or if the address of the owner is unknown, then the purchasing agent or the sheriff, as the case may be, shall cause to be published once in a paper of general circulation in the county a notice containing a description of the property held, the name of the owner if known, the name and address of the officer holding such property, and a statement that if the owner does not claim such property within six months from the date of the publication such property will be sold and the proceeds of such sales after deducting the reasonable expense of keeping such property and the costs of sale, placed in the county treasury.

"(d) The sale of any property hereunder shall be preceded by a notice published once at least three weeks prior to the date of such sale in a newspaper of general circulation in the county where the sale is to take place, stating the description of the property, the names of the owners if known and the date and place that such sale will occur. If the purchasing agent or sheriff, as the case may be, shall consider any bid as insufficient he need not sell such property but may decline such bid and re-offer such property for sale.

"(e) The real owner of any property sold shall have the right to file

a claim to the proceeds of such sale with the commissioners court of the county in which the sale took place. If the claim is allowed by the commissioners court, the county treasurer shall pay the owner such funds as were paid into the treasury of the county as proceeds of the sale. If the claim is denied by the commissioners court or if said court fails to act upon such claim within 90 days, the claimant may sue the county treasurer in a court of competent jurisdiction in the county, and upon sufficient proof of ownership, recover judgment against such county for the recovery of the proceeds of the sale."

Sec. 16. That Article 21.08 of the Code of Criminal Procedure, 1965, be and the same is hereby amended to read as follows:

"Article 21.08. Allegation of ownership

"Where one person owns the property, and another person has the possession of the same, the ownership thereof may be alleged to be in either. Where property is owned in common, or jointly, by two or more persons, the ownership may be alleged to be in all or either of them. When the property belongs to the estate of a deceased person, the ownership may be alleged to be in the executor, administrator or heirs of such deceased person, or in any one of such heirs. Where the ownership of the property is unknown to the grand jury, it shall be sufficient to allege that fact."

Sec. 17. That Article 27.02 of the Code of Criminal Procedure, 1965, be and the same is hereby amended to read as follows:

"Article 27.02. Defendant's pleadings

"1. The motion to set aside the indictment or information;

"2. A special plea setting forth one or more facts as cause why the defendant ought not to be tried upon the accusation presented against him;

"3. An exception to the indictment or information for some matter of form or substance;

"4. A plea of guilty;

"5. A plea of not guilty;

"6. A plea of nolo contendere. The legal effect of such plea shall be the same as that of a plea of guilty, but the plea may not be used against the defendant as an admission in any civil suit based upon or growing out of the act upon which the criminal prosecution is based;

"7. Defendant's application for probation, if any; and

"8. Defendant's election, if any, to have the jury assess the punishment if he is found guilty."

Sec. 18. That Article 27.14 of the Code of Criminal Procedure, 1965, be and the same is hereby amended to read as follows:

"Article 27.14. Plea of guilty or nolo contendere in misdemeanor

"A plea of 'guilty' or a plea of 'nolo contendere' in a misdemeanor case may be made either by the defendant or his counsel in open court; in such case, the defendant or his counsel may waive a jury, and the punishment may be assessed by the court either upon or without evidence, at the discretion of the court. In a misdemeanor case arising out of a moving traffic violation for which the maximum possible punishment is by fine only, payment of a fine, or an amount accepted by the court constitutes a finding of guilty in open court, although a plea of nolo contendere had been entered by the defendant."

Sec. 19. That Article 28.01 of the Code of Criminal Procedure, 1965, be and the same is hereby amended by adding a Section 3 to read as follows:

"Section 3. The notice mentioned in Section 2 above shall be sufficient if given in any one of the following ways:

"(1) By announcement made by the court in open court in the presence of the defendant or his attorney of record;

"(2) By personal service upon the defendant or his attorney of record;

"(3) By mail to either the defendant or his attorney of record deposited by the clerk in the mail at least six days prior to the date set for hearing. If the defendant has no attorney of record such notice shall be addressed to defendant at the address shown on his bond, if the bond shows such an address, and if not, it may be addressed to one of the sureties on his bond. If the envelope containing the notice is properly addressed, stamped and mailed, the state will not be required to show that it was received."

Sec. 20. That Article 35.13 of the Code of Criminal Procedure, 1965, be and the same is hereby amended to read as follows:

"Article 35.13. Passing juror for challenge

"A juror in a capital case in which

the state has made it known it will seek the death penalty, held to be qualified, shall be passed for acceptance or challenge first to the state and then to the defendant. Challenges to jurors are either peremptory or for cause."

Sec. 21. That Article 36.09 of the Code of Criminal Procedure, 1965, be and the same is hereby amended to read as follows:

"Article 36.09. Severance on separate indictments

"Two or more defendants who are jointly or separately indicted or complained against for the same offense or any offense growing out of the same transaction may be, in the discretion of the court, tried jointly or separately as to one or more defendants; provided that in any event either defendant may testify for the other or on behalf of the state; and provided further, that in cases in which, upon timely motion to sever, and evidence introduced thereon, it is made known to the court that there is a previous admissible conviction against one defendant or that a joint trial would be prejudicial to any defendant, the court shall order a severance as to the defendant whose joint trial would prejudice the other defendant or defendants."

Sec. 22. That Article 37.07 of the Code of Criminal Procedure, 1965, be and the same is hereby amended to read as follows:

"Article 37.07. Verdict must be general; separate hearing on proper punishment

"1. The verdict in every criminal action must be general. When there are special pleas on which a jury is to find they must say in their verdict that the allegations in such pleas are true or untrue. If the plea is not guilty, they must find that the defendant is either guilty or not guilty, and, except as provided in Section 2, they shall assess the punishment in all cases where the same is not absolutely fixed by law to some particular penalty.

"2. Alternate procedure

"(a) In all criminal cases, other than misdemeanor cases of which the justice court or corporation court has jurisdiction, which are tried before a jury on a plea of not guilty, the judge shall, before argument begins, first submit to the jury the issue of guilt or innocence of the defendant of the offense or offenses charged, without

authorizing the jury to pass upon the punishment to be imposed.

"(b) If a finding of guilty is returned, it shall then be the responsibility of the judge to assess the punishment applicable to the offense; provided, however, that (1) in capital cases where the state has made it known in writing prior to trial that it will seek the death penalty, (2) in any criminal action where the jury may recommend probation and the defendant filed his sworn motion for probation before the trial began, and (3) in other cases where the defendant so elects in writing at the time he enters his plea in open court, the punishment shall be assessed by the same jury. If a finding of guilty is returned, the defendant may, with the consent of the attorney for the state, change his election of who assesses the punishment.

"3. Evidence of prior criminal record in all criminal cases after a finding of guilty

"(a) Regardless of the plea and whether the punishment be assessed by the judge or the jury, evidence may be offered by the state and the defendant as to the prior criminal record of the defendant, his general reputation and his character. The term prior criminal record means a final conviction in a court of record, or a probated or suspended sentence that has occurred prior to trial, or any final conviction material to the offense charged.

"(b) After the introduction of such evidence has been concluded, and if the jury has the responsibility of assessing the punishment, the court shall give such additional written instructions as may be necessary and the order of procedure and the rules governing the conduct of the trial shall be the same as are applicable on the issue of guilt or innocence.

"(c) In cases where the matter of punishment is referred to the jury, the verdict shall not be complete until the jury has rendered a verdict both on the guilt or innocence of the defendant and the amount of punishment, where the jury finds the defendant guilty. In the event the jury shall fail to agree, a mistrial shall be declared, the jury shall be discharged, and no jeopardy shall attach.

"(d) When the judge assesses the punishment, and after the hearing of the evidence hereinabove provided for, he shall forthwith announce his

decision in open court as to the punishment to be assessed.

"(e) Nothing herein contained shall be construed as affecting the admissibility of extraneous offenses on the question of guilt or innocence."

Sec. 23. That Article 38.22 of the Code of Criminal Procedure, 1965, be and the same is hereby amended to read as follows:

"Article 38.22. When oral and written confessions shall be used

"1. The oral or written confession of a defendant made while the defendant was in jail or other place of confinement or in the custody of an officer shall be admissible if:

"(a) it be shown to be the voluntary statement of the accused taken in the presence of an examining court in accordance with law; or

"(b) it be made in writing and signed by the accused, and show that the accused has at some time prior to the making thereof received from the person to whom the statement is made the warning set out in Subsection (c)(1), (2) and (3) below or received from the magistrate the warning provided in Article 15.17, and shows the time, date, and place of the warning and the name of the person or magistrate who administered the warning; or

"(c) it be made orally or in writing to some person who has warned the defendant from whom the statement is taken that

"(1) he has the right to have a lawyer present to advise him either prior to any questioning or during any questioning,

"(2) if he is unable to employ a lawyer, he has the right to have a lawyer appointed to counsel with him prior to or during any questioning; and

"(3) he has the right to remain silent and not make any statement at all and that any statement he makes may be used in evidence against him at his trial.

"The defendant must knowingly, intelligently, and voluntarily waive these rights prior to and during the making of the statement and if the statement is given orally the defendant must make a statement of facts or circumstances that are found to be true, which conduce to establish his guilt such as the finding of secreted or stolen property, or the instrument with which he states the offense was committed.

"(d) If a written statement is taken and if the defendant is unable to write his name and signs the statement by making his mark, such statement shall not be admitted in evidence, unless it be witnessed by some person other than a peace officer, who shall sign the same as witness.

"(e) Nothing contained herein shall preclude the admissibility of any statement made by the defendant in open court at his trial or at his examining trial in compliance with Articles 16.03 and 16.04 or of any statement that is the res gestae of the arrest or of the offense.

"2. In all cases where a question is raised as to the voluntariness of a confession or statement, the court must make an independent finding in the absence of the jury as to whether the confession or statement was made under voluntary conditions. If the confession or statement has been found to have been voluntarily made and held admissible as a matter of law and fact by the court in a hearing in the absence of the jury, the court must enter an order stating its findings, which order shall be filed among the papers of the cause. Such order shall not be exhibited to the jury nor the finding thereof made known to the jury in any manner. Upon the finding by the judge as a matter of law and fact that the confession or statement was voluntarily made, evidence pertaining to such matter may be submitted to the jury and it shall be instructed that unless the jury believes beyond a reasonable doubt that the confession or statement was voluntarily made, the jury shall not consider such statement or confession for any purpose nor any evidence obtained as a result thereof. In any case where a motion to suppress the statement or confession has been filed and evidence has been submitted to the court on this issue, the court within its discretion may reconsider such evidence in his finding that the statement or confession was voluntarily made and the same evidence submitted to the court at the hearing on the motion to suppress shall be made a part of the record the same as if it were being presented at the time of trial. However, the state or the defendant shall be entitled to present any new evidence on the issue of the voluntariness of the statement or confession prior to

the court's final ruling and order stating its findings.

"3. When the issue is raised by the evidence, the trial judge shall appropriately instruct the jury, generally, on the law pertaining to such statement or confession."

Sec. 24. That Article 39.02 of the Code of Criminal Procedure, 1965, be and the same is hereby amended to read as follows:

"Article 39.02. Depositions for defendant

"Deposition of witnesses may be taken by the defendant. When the defendant desires to take the deposition of a witness, he shall, by himself or counsel, file with the clerk of the court in which the case is pending an affidavit stating the facts necessary to constitute a good reason for taking the same, and an application to take the same. Provided that upon the filing of such application, and after notice to the attorney for the state, the courts shall hear the application and determine if good reason exists for taking the deposition. Such determination shall be based on the facts made known at the hearing and the court, in its judgment, shall grant or deny the application on such facts."

Sec. 25. That Article 39.03 of the Code of Criminal Procedure, 1965, be and the same is hereby amended to read as follows:

"Article 39.03. Officers who may take the deposition

"Upon the filing of such an affidavit and application, the courts shall appoint, order or designate one of the following persons before whom such deposition shall be taken:

- "1. A district judge.
- "2. A county judge.
- "3. A notary public.
- "4. A district clerk.
- "5. A county clerk.

Such order shall specifically name such person and the time when and place where such deposition shall be taken. Failure of a witness to respond thereto, shall be punishable by contempt by the court. Such deposition shall be oral or written, as the court shall direct.

Sec. 26. That Article 39.07 of the Code of Criminal Procedure, 1965, be and the same is hereby amended to read as follows:

"Article 39.07. Certificate

"Where depositions are taken under commission in criminal actions, the officer or officers taking the same shall

certify that the person deposing is the identical person named in the commission; or, if they cannot certify to the identity of the witness, there shall be an affidavit of some person attached to the deposition proving the identity of such witness, and the officer or officers shall certify that the person making the affidavit is known to them."

Sec. 27. That Paragraphs 5, 6(a), 7 and 12 of Article 40.09 of the Code of Criminal Procedure, 1965, be and the same are hereby amended to read as follows:

"5. Responsibility for obtaining transcription of reporter's notes

"A party desiring to have included in the record a transcription of notes of the reporter shall have the responsibility of obtaining such transcription and furnishing same to the clerk in duplicate in time for inclusion in the record and the defendant shall pay therefor. The court will order the reporter to make such transcriptions without charge to defendant if the court finds, after hearing in response to affidavit by defendant that he is unable to pay or give security therefor. Upon certificate of the court that this service has been rendered, payment therefor shall be made from the general funds by the county in which the offense is alleged to have been committed in a sum to be set by the trial judge. The court reporter shall report any portion of the proceedings requested by either party or directed by the court.

"6. (a) A party desiring to have the record disclose some action, testimony, evidence, proceeding, objection, exception or other event or occurrence not otherwise shown by the record may utilize a bill of exception for this purpose. Bills of exception must be filed with the clerk and presented to the trial judge within ninety days after notice of appeal is given, and for good cause shown, the judge trying the cause may further extend the time in which to file the bills of exception and shall have the power, in term-time or in vacation, upon application for good cause to extend for as many times as deemed necessary the time for preparation and filing of bills of exception and the approval for any bill of exception by the judge trying the cause after the expiration of the ninety-day period shall be sufficient proof that the time for filing was properly ex-

tended, and any bill of exception so filed shall be construed to have been filed within the time required by law. The clerk shall notify the court of each bill immediately upon its being filed. The court shall either approve the bill without qualification or shall approve it subject to qualification or refuse it, setting forth in the qualification or refusal any reasons that may seem proper to the judge. Notice of the court's action in qualifying or refusing a bill shall be immediately given by the clerk to the party filing the bill or to his counsel, and such party, if unwilling to accept the court's qualification or refusal may not later than fifteen days after receipt of such notice, file a by-stander's bill of exception, and the clerk shall include same in the record. A bill of exception will be deemed approved without qualification if it be not acted upon by the trial judge within a period of 100 days after notice of appeal is given and no extension of time for filing has been granted; provided, however, if an extension of time for filing has been granted, a bill of exception will be deemed approved without qualification if it be not acted upon by the trial judge within a period of 10 days after the actual filing of the bill.

"7. Approval of the record

"Notice of completion of the record shall be made by the clerk by certified mail to the parties or their respective counsel. If neither files and presents to the court in writing any objection to the record, within fifteen days after the mailing of such notice and if the court has no objection to the record, he shall approve the same. If such objection be made, or if the court fails to approve the record within five days after expiration of such fifteen-day period, the court shall set the matter down for hearing, and, after hearing, shall enter such orders as may be appropriate to cause the record to speak the truth and the findings and adjudications in such orders, if supported by evidence, shall be final. In its discretion, the court may require the attendance of the defendant at such hearing. Such proceeding shall be included in the record, and the entire record approved by the court.

"12. Trial court's duty

"It shall be the duty of the trial court to decide from the briefs and oral arguments, if any, whether the defendant should be granted a new

trial by the trial court. This duty shall be performed within the period of thirty days immediately after the state's brief is filed, or, if none be filed, then within the period of thirty days immediately after the last day on which the state's brief could be timely filed. Omission of the court to perform this duty within such period shall constitute refusal of the court to grant a new trial to defendant."

Sec. 28. That Article 42.03 of the Code of Criminal Procedure, 1965, be and the same is hereby amended to read as follows:

"Article 42.03 Pronouncing sentence; time; credit for time spent in jail between arrest and sentence or pending appeal

"If a new trial is not granted, nor judgment arrested in felony and misdemeanor cases, the sentence shall be pronounced in the presence of the defendant except when his presence is not required by Article 42.02 at any time after the expiration of the time allowed for making the motion for a new trial or the motion in arrest of judgment; provided that in all criminal cases the judge of the court in which the defendant was convicted may within his discretion, give the defendant credit on his sentence for the time, or any part thereof, which said defendant has spent in jail in said cause, from the time of his arrest and confinement until his sentence by the trial court; and provided further, that in all cases where the defendant has been tried for any violation of the laws of the State of Texas, and has been convicted and has appealed from said judgment and sentence of conviction, and where said cause has been affirmed by the Court of Criminal Appeals, and after receipt of the mandate by the clerk of the trial court, the judge is authorized to again call said defendant before him; and if pending appeal, the defendant has not made bond and has remained in jail pending the time of such appeal, said trial judge may then in his discretion re-sentence the defendant, and may subtract from the original sentence pronounced upon the defendant, the length of time the defendant has lain in jail pending such appeal, noting any credit allowed upon the mandate, which credit shall be allowed by the Texas Department of Corrections in all computations affecting the eligibility of the defendant for parole or discharge. Where jail

time has been awarded, the trial judge may, when in his discretion the ends of justice would best be served, sentence the defendant to serve his sentence during his off-work hours, or on week-ends. When such a sentence is permitted by the trial judge it must be served on consecutive days or consecutive week-ends. The trial judge may require bail of the defendant to insure the faithful performance of the sentence. The trial judge may attach conditions regarding the employment, travel, and other conduct of the defendant during the performance of such a sentence."

Sec. 29. That Sections 10, 12 (under "B. Probations"), 15, 16, 18 and 27 of Article 42.12 of the Code of Criminal Procedure, 1965, be and the same are hereby amended and a new Section 6a added to said Article 46.12 to read as follows:

"Article 42.12 Adult Probation and Parole Law

"Section 6a. (a) A court granting probation may fix a fee not exceeding \$10 per month to be paid to the court by the probationer during the probationary period. The court may make payment of the fee a condition of granting or continuing the probation.

"(b) The court shall distribute the fees received under Subsection (a) of this section to the county or counties in which the court has jurisdiction for use in administering the probation laws. In instances where a district court has jurisdiction in two or more counties, the court shall distribute the fees received to the counties in proportion to population as prescribed by Paragraph 7, Section 10 of this Article."

"Section 10. For the purpose of providing adequate probation services, the district judge or district judges having original jurisdiction of criminal actions in the county or counties, if applicable, are authorized, with the advice and consent of the commissioners court as hereinafter provided, to employ and designate the titles and fix the salaries of probation officers, and such administrative, supervisory, stenographic, clerical, and other personnel as may be necessary to conduct pre-sentence investigations, supervise and rehabilitate probationers, and enforce the terms and conditions of probation. Only those persons who have successfully completed education in an accredited college or university

and two years full time paid employment in responsible probation or correctional work with juveniles or adults, social welfare work, teaching or personnel work; or persons who are licensed attorneys with experience in criminal law; or persons who are serving in such capacities at the time of the passage of this Article and who are not otherwise disqualified by Section 31 of this Article, shall be eligible for appointments as probation officers; providing that additional experience in any of the above work categories may be substituted year for year for the required college education, with a maximum substitution of two years. Provided, however, that in a county having a population of less than 50,000, according to the last preceding Federal census, any person having completed at least two years education in an accredited college or university will be eligible for appointment.

"It is the further intent of this Article that the caseload of each probation officer not substantially exceed seventy-five probationers.

"Where more than one probation officer is required, the judge or judges shall appoint a chief adult probation officer or director, who, with their approval, shall appoint a sufficient number of assistants and other employees to carry on the professional, clerical, and other work of the court.

"The judge or judges, with the approval of the juvenile board of the county, may authorize the chief probation or chief juvenile officer to establish a separate division of adult probation and appoint adult probation officers and such other personnel as required. It is the further intent of this Act that the same person serving as a probation officer for juveniles shall not be required to serve as a probation officer for adults and vice-versa.

"The judge or judges may, with the approval of the director of parole supervision, designate a parole officer or supervisor employed by the Division of Parole Supervision as a probation officer for the county or district.

"Probation officers shall be furnished transportation, or alternatively, shall be entitled to an automobile allowance for use of personal automobile on official business, under the same terms and conditions as is provided for sheriffs.

"The salaries of personnel, and other expenses essential to the adequate supervision of probationers, shall be paid from the funds of the county or counties comprising the judicial district or geographical area served by such probation officers. In instances where a district court has jurisdiction in two or more counties, the total expenses of such probation services shall be distributed approximately in the same proportion as the population in each county bears to the total population of all those counties, according to the last preceding or any future Federal Census. In all the instances of the employment of probation officers, the responsible judges and county commissioners are authorized to accept grants or gifts from other political subdivisions of the state or associations and foundations, for the sole purpose of financing adequate and effective probationary programs in the various parts of the state. For the purposes of this Act, the municipalities of this state are specifically authorized to grant and allocate such sums of money as their respective governing bodies may approve to their appropriate county governments for the support and maintenance of effective probationary programs. All grants, gifts, and allocations of the character and purpose described in this section shall be handled and accounted for separately from other public funds of the county."

"Section 12. The provisions of Sections 6a, 10, and 11 of this Article also apply to Article 42.13."

"Section 15. (a) The Board is hereby authorized to release on parole, with the approval of the Governor, any person confined in any penal or correctional institution of this State, except persons under sentence of death, who has served one-third of the maximum sentence imposed, provided that in any case he may be paroled after serving 20 calendar years. Time served on the sentence imposed shall be the total calendar time served and all credits allowed under the laws governing the operation of the Department of Corrections, and executive clemency. All paroles shall issue upon order of the Board, duly adopted and approved by the Governor.

"(b) Within one year after a prisoner's admittance to the penal or correctional institution and at such intervals thereafter, as it may deter-

mine, the Board shall secure and consider all pertinent information regarding each prisoner, except any under sentence of death, including the circumstances of his offense, his previous social history and criminal record, his conduct, employment and attitude in prison, and the reports of such physical and mental examinations as have been made.

"(c) Before ordering the parole of any prisoner, the Board may have the prisoner appear before it and interview him. A parole shall be ordered only for the best interest of society, not as an award of clemency; it shall not be considered to be a reduction of sentence or pardon. A prisoner shall be placed on parole only when arrangements have been made for his proper employment or for his maintenance and care, and when the Board believes that he is able and willing to fulfill the obligations of a law-abiding citizen. Every prisoner while on parole shall remain in the legal custody of the institution from which he was released but shall be amenable to the orders of the Board.

"(d) The Board may adopt such other reasonable rules not inconsistent with the law as it may deem proper or necessary with respect to the eligibility of prisoners for parole, the conduct of parole hearings, or conditions to be imposed upon parolees. Whenever an order for parole is issued it shall recite the conditions thereof in clear and intelligible language.

"(3) he has paid all costs of his trial and so much of any fine imposed as the court directs; and

"(4) the court believes that the ends of justice and the best interests of society and of the defendant will be served by granting him probation.

"(b) If a defendant satisfies all the requirements of Section 3(a) (1), (2), (3) and (4) of this Article, and the jury hearing his case recommends probation in its verdict, the court must grant the defendant probation. The court may grant the defendant probation regardless of the recommendation of the jury or the prior conviction of the defendant. The court may, however, extend the term of the probationary period to any length of time not exceeding the maximum time of confinement allowed by law. In the event probation is revoked in accordance with Section 6, the judgment of the court shall not pre-

scribe any penalty in excess of that imposed by the jury.

"(c) A defendant's application for probation must be made under oath and must also contain statements (1) either that he has never before been convicted in this or another jurisdiction of a felony or of a misdemeanor for which the maximum permissible punishment is by confinement in jail or by a fine in excess of \$200 or by both such fine and imprisonment, or, if he has been so convicted, setting forth such fact and specifying the time and place of such conviction, the nature of the offense for which he was convicted, and the final punishment assessed therein; and (2) that he has not been granted probation nor been under probation under this Article or any other Article in the preceding five years. The application may contain what other information the court directs.

"(d) When a defendant has applied for probation, the court during the trial of his case must receive competent evidence concerning the defendant's entitlement to probation."

"Section 5. (a) The period and terms of probation shall be determined by the court granting it. Except as provided in Subsection (d) of this section, a probationer is under the supervision of the court granting him probation.

"(b) The period and terms of probation shall be designed to prevent recidivism and promote rehabilitation of the probationer. The terms must include, but are not limited to, the requirement that a probationer:

"(1) commit no offense against the laws of this or any other state or the United States;

"(2) avoid injurious or vicious habits;

"(3) avoid persons or places of disreputable or harmful character;

"(4) report to the probation officer as directed;

"(5) permit the probation officer to visit him at his home or elsewhere;

"(6) work faithfully at suitable employment as far as possible;

"(7) remain within a specified place;

"(8) pay his fine, if the court so orders and, if one be assessed, in one or several sums, and make restitution or reparation in any sum that the court shall determine not to exceed One Thousand Dollars (\$1,000);

"(9) support his dependents; and

"(10) submit a copy of his finger-

prints to the sheriff's office of the county in which he was tried.

"The clerk shall send such fingerprints to the Texas Department of Public Safety, which shall return a certificate to the court in which the defendant was tried, which certificate shall contain any criminal record of the defendant or record with the Department, or if no record exists, then a certificate from the Texas Department of Public Safety showing the absence of any previous criminal record. The Texas Department of Public Safety shall, in addition to its present responsibilities, keep a record of all misdemeanor arrests within the purview of this section and the deposition of such cases.

"(c) The clerk of a court granting probation shall promptly furnish the probationer with a written statement of the period and terms of his probation. If the period or terms are later modified, the clerk of the modifying court shall promptly furnish the probationer with a written statement of the modifications. The clerk in either case shall take a receipt from the probationer for delivery of the statement.

"(d) After probation has been granted, jurisdiction of the probationer's case may be transferred to another court which can more conveniently supervise the probation. If the other court accepts the transfer, the transferring court shall forward to it all pertinent records in the case. The court accepting the transfer is vested with jurisdiction of the case and may exercise any power conferred by this Act upon the court initially granting probation."

Sec. 31. That Article 44.11 of the Code of Criminal Procedure, 1965, be and the same is hereby amended to read as follows:

"Article 44.11. Effect of appeal

"Upon the appellate record being filed in the Court of Criminal Appeals, all further proceedings in the trial court, except as to bond as provided in Article 44.04 and the proceedings in Article 40.09, shall be suspended and arrested until the judgment of the Court of Criminal Appeals is received by the trial court. In cases where the record or any portion thereof is lost or destroyed it may be substituted in the trial court and when so substituted the record may be prepared and transmitted to the Court of Criminal Appeals as in other cases."

Sec. 32. That Article 44.23 of the

Code of Criminal Procedure, 1965, be and the same is hereby amended to read as follows:

"Article 44.23. Appeals, when determined

"The Court of Criminal Appeals shall hear and determine appeals in criminal actions at the earliest time it may be done, with due regard to the rights of parties and proper administration of justice, and no affirmance or reversal of a case shall be determined on mere technicalities or on technical errors in the preparation and filing of the record on appeal."

Sec. 33. That Article 46.02 of the Code of Criminal Procedure be and the same is hereby amended to read as follows:

"Article 46.02 (932b) Insanity in defense or in bar

No prior trial except by agreement

"Section 1. No issue of insanity shall be tried in advance of trial on the merits, except upon written application on behalf of the accused with the consent of the states attorney and the approval of the trial judge.

Procedure at trial

"Section 2. (a) At the trial on the merits, the trial court shall hear evidence on the issue of present insanity (1) if prior to the offer thereof there be filed on behalf of the defendant's written motion asking the court to hear evidence on such issue and requesting the court to declare a mistrial because of such insanity in the manner and to the extent provided for in this article; or (2) if the defendant otherwise asks for a decision or issue thereon, in which event such act of the defendant shall be treated and considered as if the defendant had filed such a motion for mistrial. For purposes of present insanity, the defendant shall be considered presently insane if he is presently incompetent to stand trial.

"(b) When the issue of present insanity is tried, the following rules shall apply:

"(1) The issue of present insanity shall be submitted to the jury only if supported by competent testimony.

"(2) (a) Instructions submitting the issue of present insanity shall be framed so as to require the jury to state in its verdict whether defendant is sane or insane at the time of the trial.

"(b) If there has been competent

medical or psychiatric testimony to the effect that the defendant is presently insane, instructions submitting the issue of present insanity shall require the jury, if it finds the defendant presently insane, to state whether the defendant requires hospitalization in a mental hospital for his own welfare and protection or the protection of others.

"(3) The charge shall instruct the jury that if it finds defendant is presently insane it will not consider or deliberate upon any other issues except (a) whether the defendant should be committed to a mental hospital; and (b) whether he was sane or insane as of the time of the alleged offense, if such issue be submitted.

"(c) When the issue of insanity as of the time of the alleged offense is tried, the following rules shall apply:

"(1) The issue of insanity as of the time of the alleged offense shall be submitted to the jury only if supported by competent evidence tending to show that defendant was insane as of the time of the alleged offense.

"(2) Instructions submitting the issue of insanity as of the time of the alleged offense shall be framed so as to require the jury to state in its verdict whether defendant was sane or insane as of the time of the alleged offense.

"(3) If the jury finds the defendant to have been insane at the time the offense is alleged to have been committed, the defendant shall stand acquitted of the alleged offense.

"(d) The following rules shall apply upon defendant's being acquitted by reason of the jury's returning a finding that he was insane as of the time of the alleged offense:

"(1) If the jury finds the defendant to be insane at the time of trial, and if it further finds that the defendant should be committed to a mental institution, or if the court so finds on competent medical or psychiatric testimony, the court shall enter an order committing the defendant to a state mental hospital and placing him in the custody of the sheriff for transportation to a state mental hospital to be confined therein until he becomes sane. The court shall further order that a transcript of all medical testimony adduced before the jury shall be forthwith prepared by the court reporter and such transcript shall accompany the patient to the state mental hospital.

"(2) If the jury returns a finding

that defendant is sane as of the time of the trial, then the defendant shall be finally discharged.

"(3) If there be no jury finding on the issue of present insanity, then the court, if the discharge or going at large of defendant be considered by the court manifestly dangerous to the peace and safety of the people, shall order defendant committed to jail or other suitable place pending the prompt initiation and prosecution by the attorney for the state or other person designated by the court of appropriate civil proceedings to determine whether defendant shall be committed to a mental institution, or the court may give defendant into the care of his friends on their giving satisfactory security for his proper care and protection; otherwise, defendant shall be discharged.

"(e) Where the jury finds that the defendant is presently insane, but does not find that he was insane at the time of the offense (either because such issue was not submitted or because the jury failed to find on that issue or because it found that he was not insane at such time), the court shall enter a mistrial as to all issues except the issue of present insanity. If the jury finds that the defendant should be committed to a mental institution, the proper order so committing him shall be entered by the court.

"(f) Evidence. (1) The court may, at its discretion appoint disinterested qualified experts to examine the defendant with regard to his present competency to stand trial and as to his sanity, and to testify thereto at any trial or hearing in connection to the accusation against the accused.

"(2) Such appointed experts shall be paid out of the General Fund of the county where the indictment was found or information was filed.

"(3) If the defendant is free on bail, the court in its discretion may commit him to custody pending such examination.

"(4) No statement made by the defendant during examination into his competency shall be admitted in evidence against the accused on the issue of guilt in any criminal proceeding no matter under what circumstances such examination takes place.

"(5) Any party may introduce other competent testimony regarding the defendant's competency.

"(g) If trial is without a jury. (1) If the trial is before the court with-

out a jury and if, after commencement of a trial on the merits and before the return of a verdict, there arises in the mind of the court from any cause, a reasonable doubt as to the present sanity of the defendant, the court shall suspend the proceedings and shall without unnecessary delay impanel a jury to determine the issue of the present sanity of the defendant.

"(2) In such event, the trial before the jury on that issue shall proceed under the same procedure, and the jury shall have the same duties and responsibilities with respect to the hearing on the question of present insanity and on the question of hospitalization and related questions, as are set forth in the other portions of this article where the question is raised in a jury trial.

"(3) If the jury so impanelled shall determine that the defendant is sane at present, then in such event the court shall resume without unnecessary delay, the trial on the merits at the point where the proceedings were suspended. If the jury so impanelled shall determine that the defendant is not sane at present, then in such event the court shall declare a mistrial of the trial on the merits and shall enter such orders with respect to commitment and other matters as are authorized in accordance with the other portions of this article, and as may be appropriate under the jury findings, the facts and the law.

"(4) If the jury so impanelled is unable to agree upon a unanimous verdict after a reasonable opportunity to deliberate, the court shall declare a mistrial of the competency trial, discharge the jury so impanelled and impanel another jury to determine the present mental competency of the defendant.

"(h) A mistrial under the provisions of this section shall not serve to bar a subsequent trial and conviction for the same offense, and no jeopardy shall be considered as having attached in the event the defendant is found to be presently insane and a mistrial is declared by reason thereof, irrespective of the manner in which the issue is raised."

Sec. 34. That Article 52.01 of the Code of Criminal procedure, 1965, be amended to read as follows:

"Article 52.01. Courts of Inquiry conducted by county and district judges.

"When a judge of any county or district court of this state, acting in his capacity as magistrate, has good cause to believe that an offense has been committed against the laws of this state, he may summon and examine any witness in relation thereto in accordance with the rules hereinafter provided, which procedure is defined as a 'Court of Inquiry'."

Sec. 35. Article 52.02 of the Code of Criminal Procedure, 1965, is amended to read as follows:

"Article 52.02. Evidence; Deposition; Affidavits.

"At the hearing at a Court of Inquiry, evidence may be taken orally or by deposition, or, in the discretion of the judge, by affidavit. If affidavits are admitted, any witness against whom they may bear has the right to propound written interrogatories to the affiants or to file answering affidavits. The judge in hearing such evidence, at his discretion, may conclude not to sustain objections to all or to any portion of the evidence taken nor exclude same; but any of the witnesses or attorneys engaged in taking the testimony may have any objections they make recorded with the testimony and reserved for the action of any court in which such evidence is thereafter sought to be admitted, but such court is not confined to objections made at the taking of the testimony at the Court of Inquiry. Without restricting the foregoing, the judge may allow the introduction of any documentary or real evidence which he deems reliable, and the testimony adduced before any grand jury."

Sec. 36. Article 52.03 of the Code of Criminal Procedure, 1965, is amended to read as follows:

"Article 52.03. Subpoenas.

"The judge or his clerk has power to issue subpoenas which may be served within the same territorial limits as subpoenas issued in felony prosecutions or to summon witnesses before grand juries in this state."

Sec. 37. Article 52.04 of the Code of Criminal Procedure, 1965, is amended to read as follows:

"Article 52.04. Rights of Witnesses.

"All witnesses testifying in any Court of Inquiry have the same rights as to testifying as do defendants in felony prosecutions in this state. Before any witness is sworn to testify in any Court of Inquiry, he shall be instructed by the judge that he is entitled to counsel; that he cannot

be forced to testify against himself; and that such testimony may be taken down and used against him in a later trial or trials ensuing from the instant Court of Inquiry. Any witness or his counsel has the right to fully cross-examine any of the witnesses whose testimony bears in any manner against him."

Sec. 38. Article 52.05 of the Code of Criminal Procedure, 1965, is amended to read as follows:

"Article 52.05. Witness must testify

"A person may be compelled to give testimony or produce evidence when legally called upon to do so at any Court of Inquiry; however, if any person refuses or declines to testify or produce evidence on the ground that it may incriminate him under the laws of this state, then the judge may, in his discretion, compel such person to testify or produce evidence but the person shall not be prosecuted or subjected to any penalty or forfeiture for, or on account of, any transaction, matter or thing concerning which he may be compelled to testify or produce evidence at such Court of Inquiry."

Sec. 39. Article 52.09 of the Code of Criminal Procedure, 1965, is amended to read as follows:

"Article 52.09. Costs.

"All costs incurred in conducting a Court of Inquiry shall be borne by the county in which said Court of Inquiry is conducted; provided, however, that where the Attorney General of Texas has submitted a request in writing to the judge for the holding of such Court of Inquiry, then and in that event the costs shall be borne by the State of Texas and shall be taxed to the Attorney General and paid in the same and from the same funds as other court costs."

Sec. 40. That Article 82 of the Penal Code of Texas, as adopted by the 39th Legislature, 1925, be and the same is hereby repealed in its entirety.

Sec. 41. Saving Clause.

Any confession admissible at the time it was made shall be admissible at any trial subsequent to the effective date of this Act. The provisions of this Act shall not affect the admissibility of confessions made prior to the effective date of the Act.

Sec. 42. Severability Clause.

If any provision, section or clause of this Act or application thereof to

any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications hereof which can be given effect without the invalid provision, section or clause, and to this end the provisions of this Act are declared to be severable.

Sec. 43. Emergency Clause.

The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each house be suspended; and said Rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Committee Amendment 2

Amend S. B. No. 145 by striking all above the enacting clause and substituting the following:

A BILL TO BE ENTITLED

An Act to amend the following Articles of the Code of Criminal Procedure, 1965, namely, Article 1.14, relating to waiver of rights; Article 1.15, relating to juries in felony cases; Subsection (b) of Article 2.03, relating to neglect of duty; Article 2.07, relating to attorney pro tem; Article 2.12, defining peace officer; adding a new Article 2.24, relating to identification of witnesses; Article 11.07, relating to writs of habeas corpus; Article 14.01, relating to arrest for offense within view; Article 14.03, relating to arrest by peace officers without warrant; Article 14.06, relating to the taking of offenders before magistrates; Article 15.16, relating to the execution of warrants; Article 15.17, defining duties of arresting officer and magistrate; Article 15.26, relating to authority to arrest; Section 2 of Article 17.11, relating to bail bonds; Article 18.30, relating to the sale of unclaimed or abandoned property; Article 21.08, relating to allegations of ownership in indictments; Article 27.02, relating to defendant's pleadings; Article 27.14, relating to plea of guilty or nolo contendere in misdemeanors; Article 28.01, relating to pre-trial by adding a new Section to be numbered 3; Article 35.13, relating to the passing of jurors for challenge;

Article 36.09, relating to severance on separate indictments; Article 37.07, relating to verdicts; Article 38.22, relating to confessions; Article 39.02, relating to depositions for defendant; Article 39.03, relating to officers taking depositions; Article 39.07, relating to certificates; paragraphs 5, 6(a), 7 and 12 of Article 40.09, relating to the record on appeal; Article 42.03, relating to sentencing; Article 42.12, relating to the adult probation and parole law by adding a new section to be numbered 6a and amending Sections 10, 12 (under "B. Probations"), 15, 16, 18 and 27 of said Article 42.12; Sections 3 and 5 of Article 42.13, relating to the misdemeanor probation law; Article 44.11, relating to effect of appeals; Article 44.23, relating to determination of appeals; Article 46.02, relating to insanity in defense or in bar; Article 52.01, relating to conducting of Courts of Inquiry by county and district judges; Article 52.02, relating to evidence, depositions and affidavits; Articles 52.03, relating to subpoenas; Article 52.04, relating to rights of witnesses; Article 52.05, relating to testimony of witnesses; Article 52.09, relating to payment of costs of conducting Courts of Inquiry; repealing Article 82 of the Penal Code of Texas; saving confessions made prior to the effective date of the Act; providing a severability clause; and declaring an emergency.

Amendment 3

Amend the Committee Substitute to S. B. 145 by striking the words "judgment nisi" on line 30 of page 5 and inserting the words "final judgment on the scire facias" in their place.

Amendment 4

Amend the Committee Substitute to S. B. No. 145 as follows:

1. In Section 23, on page 9, delete the words "orally or" on line 45.
2. In Section 23, on page 9, place a period after the word "statement" on line 56.
3. In Section 23, on page 10, delete the material beginning with the word "and" on line 1 through the word "committed" on line 5.
4. In Section 23, on page 10, redesignate subsection (e) as subsection

tion (f) and insert a new subsection (e) to read as follows:

"(e) it be made orally and the defendant makes a statement of facts or circumstances that are found to be true, which conduce to establish his guilt, such as the finding of secreted or stolen property, or the instrument with which he states the offense was committed."

Amendment 5

Amend the Committee Substitute to S. B. No. 145 as follows:

1. In Section 33, on page 19, insert the words "Sections 1 and 2 of" between the word "That" and the word "Article" on line 1.

2. In Section 33, on page 19, insert the words "or his counsel" between the word "defendant" and the word "otherwise" on line 16.

3. In Section 33, on page 19, strike the words "stand trial" after the word "to" on line 20 and insert the words "make a rational defense."

The House amendments were read.

Senator Bates moved that the Senate concur in the House amendments.

The motion prevailed.

Record of Votes

Senators Hardeman, Grover, Patman, Wade and Christie asked to be recorded "Nay" on the motion to concur in the House amendments to S. B. No. 145.

Welcome Resolutions

S. R. No. 677—By Senator Herring: Extending welcome to teachers and students of Seventh Grade of Leander Junior High School.

S. R. No. 678—By Senator Herring: Extending welcome to teachers and students of Eighth Grade of Leander Junior High School.

S. R. No. 679—By Senator Bates: Extending welcome to teachers and students of Eighth Grade of Olmito School in Cameron County.

S. R. No. 680—By Senator Herring: Extending welcome to teacher and students of Mathews School of Austin.

Adjournment

On motion of Senator Parkhouse the Senate at 3:42 o'clock p.m. ad-

journed until 10:00 o'clock a.m. Monday, May 22, 1967.

APPENDIX

Reports of Standing Committee

Senator Hardeman submitted the following reports:

Austin, Texas,
May 19, 1967.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Engrossed and Enrolled Bills, to which was referred:

S. B. No. 565, An Act relating to the creation, establishment, maintenance, and operation of the Orange County Airport Authority in accordance with the provisions of Section 12, Article IX of the Constitution of the State of Texas; and declaring an emergency.

has carefully compared same and finds it correctly enrolled.

HARDEMAN, Chairman.

Austin, Texas,
May 19, 1967.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Engrossed and Enrolled Bills, to which was referred:

S. B. No. 231, An Act fixing the maximum salary for the county road engineer in certain counties; amending Section 1, Chapter 68, Acts of the 58th Legislature, Regular Session, 1963 (Article 3912j, Vernon's Texas Civil Statutes); and declaring an emergency.

has carefully compared same and finds it correctly enrolled.

HARDEMAN, Chairman.

Austin, Texas,
May 19, 1967.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Engrossed and Enrolled Bills, to which was referred:

S. B. No. 300, An Act relating to the annual salary of the County Road Engineer; amending Section 6, Chap-

ter 178, Acts of the 50th Legislature, 1947, as amended (Article 6716-1, Vernon's Texas Civil Statutes); and declaring an emergency.

has carefully compared same and finds it correctly enrolled.

HARDEMAN, Chairman.

Austin, Texas,
May 19, 1967.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Engrossed and Enrolled Bills, to which was referred:

S. B. No. 556, An Act relating to the election and terms of office of members of the Board of Trustees in certain independent school districts whose seven members in alternate years (four one year, three the next) are elected for two-year terms; permitting and providing for three-year terms on a 3-2-2 alternating years basis; prescribing the rotation procedure therefor; providing that the provisions of this Act shall be regarded as permissive and cumulative of other laws on the subject; and declaring an emergency.

has carefully compared same and finds it correctly enrolled.

HARDEMAN, Chairman.

Austin, Texas,
May 19, 1967.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Engrossed and Enrolled Bills, to which was referred:

S. B. No. 342, An Act authorizing certain cities to enter into contracts with conservation and reclamation districts in regard to the conveyance, transportation, distribution, sale and repurchase of water; prescribing some of the terms and conditions thereof; authorizing such cities to enter into certain contracts for the sale of water; providing that this Act shall be cumulative but that cities electing to make contracts under this Act shall be governed solely thereby, any Statute, charter provision or ordinance to the contrary notwithstanding; and declaring an emergency.

has carefully compared same and finds it correctly enrolled.

HARDEMAN, Chairman.

Austin, Texas,
May 19, 1967.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Engrossed and Enrolled Bills, to which was referred:

S. B. No. 359, An Act amending Section 1, Article 22.18, Texas Insurance Code, by adding Article 3.62, concerning attorney's fees and penalties, to the list of Articles which apply to stipulated premium companies; and declaring an emergency.

has carefully compared same and finds it correctly enrolled.

HARDEMAN, Chairman.

Austin, Texas,
May 19, 1967.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Engrossed and Enrolled Bills, to which was referred:

S. B. No. 566, An Act authorizing the Board of Regents, State Senior Colleges, for and on behalf of Sam Houston State College, to execute a quitclaim deed of the right, title and interest of said college in and to the estate of William Victor Adams, deceased, unto a corporation or foundation to be created for the purposes of administering trusts and handling of scholarship gifts and bequests for educational purposes at Sam Houston State College, its successor or assigns; and declaring an emergency.

has carefully compared same and finds it correctly enrolled.

HARDEMAN, Chairman.

Austin, Texas,
May 19, 1967.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Engrossed and Enrolled Bills, to which was referred:

S. B. No. 588, An Act authorizing incorporated cities which have heretofore annexed or which shall hereafter annex territory under authority of Articles 1183 through 1187, Revised Civil Statutes of Texas, 1925, to designate all or any part of such territory so annexed and remaining in such limited purpose annexation status as an industrial district and to

contract with the owner or owners of land in such industrial district and to contract with the owner or owners of land in such individual district to guarantee the continuation of the limited purpose annexation status of such district and for other purposes; providing for severability; and declaring an emergency.

has carefully compared same and finds it correctly enrolled.

HARDEMAN, Chairman .

Austin, Texas,
May 19, 1967.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Engrossed and Enrolled bills, to which was referred:

S. B. 560, An Act to authorize the board of trustees of certain independent school districts to fix the date of election of trustees on a certain date and to provide for the election of trustees by a majority vote; and declaring an emergency.

has carefully compared same and finds it correctly enrolled.

HARDEMAN, Chairman.

Austin, Texas,
May 19, 1967.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on En-

grossed and Enrolled bills, to which was referred:

S. B. No. 332, An Act relating to the compensation of the official shorthand reporter for the 85th Judicial District of Texas; and declaring an emergency.

has carefully compared same and finds it correctly enrolled.

HARDEMAN, Chairman.

Sent to Governor

May 19, 1967

S. B. No. 565

S. B. No. 332

S. B. No. 560

S. B. No. 588

S. B. No. 566

S. B. No. 359

S. B. No. 342

S. B. No. 556

S. B. No. 300

S. B. No. 231

S. C. R. No. 64

S. C. R. No. 74

S. C. R. No. 75

S. C. R. No. 76

S. J. R. No. 37

In Memory of Owen Goodnight, Jr.

Senator Herring offered the following resolution:

(Senate Resolution 681)

Whereas, His family, friends, professional associates throughout Texas, and the young people of San Marcos High School suffered a great loss with the untimely death of Owen Goodnight, head football coach of the San Marcos Rattlers for the past 16 years; and

Whereas, The Rattler Booster Club had proclaimed Saturday, May 13, as "Owen Goodnight Day" in his honor, and he was attending the Appreciation Dinner that evening, where he was to be the featured speaker, when death came at the age of 49; and

Whereas, A native of Holland, Texas, he first came to San Marcos as head football coach in 1951, and just two months before his death he was promoted to assistant high school principal and full-time athletic director at San Marcos; and

Whereas, During his long tenure as head coach at San Marcos he has compiled a 118-49-4 record, winning six district championships; in 1964, he took the Rattlers to the Class AAA state finals and in 1965 and 1966, he directed San Marcos to the AAA semi-finals; and

Whereas, After graduating from Hardin-Simmons University at Abilene in 1940, he played professional football with the Cleveland Rams, was quarterback with the Chicago Bears, and also played with the Baltimore Colts, he then served as a Captain in the Army during World War II, and on his return from service he coached three years in a Pasadena junior high school before moving to San Marcos; and

Whereas, Hundreds of San Marcos students and former students mourned the loss of this outstanding man, who instilled the principles of sportsmanship in his teams and inspired his athletes to strive to win but not at the sacrifice of fair play; and

Whereas, His leadership in church and civic affairs is also a great loss to the citizens of San Marcos: he was a member of the Lions club and the Methodist Church; and

Whereas, The Senate of the 60th Legislature wishes to pay tribute to this outstanding citizen and to extend sympathy to the members of his family: his wife and two daughters, Debra Kay and Pamela Ann Goodnight, of San Marcos; his father, Owen L. Goodnight, Sr., of Holland; four brothers, Eddie Goodnight of Bartlett, and Wayne Goodnight, Dr. C. D. Goodnight and Melvin Goodnight, all of Holland; and four sisters, Mrs. Mildred Walker of High Point, N. C., Mrs. Ray Ragsdale of Belton, Mrs. Hubert Nutt of Valley Mills and Mrs. Carolyn Simmons of Temple; now, therefore, be it

Resolved, That the Senate of the State of Texas by this Resolution express appreciation for the life and service of Owen Goodnight, Jr., who dedicated his life to the building of sportsmanship, citizenship and endeavor in young people; and, be it further

Resolved, That copies of this Resolution, under the Seal of the Senate of Texas, be prepared for his wife and children and for his father; and, be it further

Resolved, That when the Senate of Texas adjourns this day, it do so in memory of Owen Goodnight, Jr.

The resolution was read and was adopted by a rising vote of the Senate.